


664
11
THE
COMPLETE
JUSTICE. ^{et}

A
COMPENDIUM
of the particulars incident to Justices
of the Peace, either in Sessions
or out of Sessions:

Gathered out of the Statutes, Reports,
late Resolutions of the Judges,
and other approved Authorities.

Abstracted and cited Alphabetically for
their ready helpe, and the ease of inferiour
Officers, and for the generall good
of the Kingdome.

*Multa conceduntur per obliquum, quæ non con-
ceduntur de directo, Coke lib. 6. 47.*

W Printed, ANNO 1637. 

IX
C73725U


EX BIBLIOTHECA
HOSPITII DOMINORUM
ADVOCATORUM DE ARCUBUS
LONDINI.

JUN 15 1929

Acc
Acq
Ad
Affi
Ag
Ale
Alia
m
Alie
al
Alleg
Ame
App
App
Appa
App
Appr
Appr
Arche
Armo
Arrej
Arrai
Artif
Affaul

T A B U L A.

A.

 <i>Biuration.</i>	Fol. 1.
<i>Absolve, vid. Treason.</i>	ibid.
<i>Acceſſary and Principall.</i>	ibid.
<i>Acquitall, vide Indiſtments.</i>	
<i>Additions.</i>	4
<i>Affray, and Affrayes.</i>	6
<i>Agnus Dei.</i>	ibid.
<i>Ale-houſes.</i>	7
<i>Alias Dictus, vide Indiſtment.</i>	9
<i>Alien and his Triall, vide Triall.</i>	ibid.
<i>Allegiance, vi. Supremacie.</i>	ib.
<i>Amerciaments.</i>	10
<i>Appearance.</i>	11
<i>Appeachment, vi. Approvers.</i>	ib.
<i>Apparell.</i>	ibid.
<i>Appeale.</i>	ibid.
<i>Apprentices.</i>	ibid.
<i>Approvers, or Appeachers.</i>	13
<i>Archery.</i>	ibid.
<i>Armour.</i>	14
<i>Arreſts.</i>	15
<i>Arraignement.</i>	16
<i>Artificers, vide Labourers.</i>	ibid.
<i>Aſſault.</i>	ibid.

<i>Assembly, vid. unlawfull Aſſembly.</i>	17
<i>Aſſiſe of bread and beere.</i>	ib.
<i>Attainder.</i>	ibid.
<i>Awaiting, vi. Way-lying.</i>	18
<i>Averment.</i>	ibid.

B.

<i>B Adgers & Drovers.</i>	18
<i>Bailement.</i>	ibid.
<i>Bailiffes.</i>	23
<i>Bakers, vi. Aſſiſe of Bread.</i>	ib.
<i>Barretor.</i>	ibid.
<i>Bargaine and ſale, vide Inrolment.</i>	24
<i>Barke, vid. Leather.</i>	ibid.
<i>Baſtardy.</i>	ibid.
<i>Bath and Buxton, vide Licence.</i>	ibid.
<i>Bawderie.</i>	ibid.
<i>Beads, vid. Agnus Dei.</i>	ibid.
<i>Bear-wards, vi. Licence.</i>	25
<i>Beere and Brewers, vi. Viſtallers.</i>	ibid.
<i>Beggers, vid. Rogues & poore.</i>	ibid.
<i>Blockwood, vi. Logwood.</i>	ibid.
<i>Bloudſhed.</i>	ibid.
<i>Bond, vid. Recognizance.</i>	ibid.
<i>Bowyers.</i>	

T A B U L A.

Bowyers.	25
Brasse and Pewter.	26
Breach of the Peace and good Behaviour.	ibid.
Bridges.	28
Buggerie.	ibid.
Bul from Rome. vi. Treason.	29
Burglarie.	ibid.
Burning.	31
Butchers.	ibid.
Butter and Cheese, vi. Vittuals of transportation.	32
Butts.	ibid.
Buying, vi. Cattell.	ibid.

C.

Calves and Kine.	32
Captaines.	33
Cattell.	ibid.
Certificate.	ibid.
Certiorari.	35
Challenge.	37
Champertie.	ibid.
Chance medley, vi. Homicide.	ibid.

Chastisement, vi. Correction.	ib.
Church and Church-yards.	ib.
Church-wardens.	38
Clarke of the Peace.	39
Clarke of a Iustice.	40
Clarke of the Crowne.	ibid.
Clarke of the Market.	ib.
Clergie and Sanctuary.	ibid.
Cloth.	44

Commission of peace.	46
Commons.	47
Common Praier.	47
Concealment, vi. Iurors.	48
Confession.	ibid.
Coniuration.	49
Conseruers of the peace.	ibid.
Constables.	ibid.
Conventicles.	50
Conies, vi. Hunting.	ibid.
Corne.	ibid.
Coroners.	51
Cottages.	ib.
County.	52
Coozeners.	53
Crosses, vi. Agnus Dei.	ib.
Cros-bowes & Hand-guns.	ib.
Curriers, vi. Leather.	55
Customer, vi. Corne.	ibid.
Custos Rotulorum.	ibid.
Cutpurse.	ib.
Cutting out of tongues.	ib.
Cutting of Pond heads.	56

D.

Deere and Hayes.	56
Demurrer.	ibid.
Deputy.	57
Divine Service.	ibid.
Dogs, vi. Hunting.	ibid.
Drovers of Common.	ibid.
Drovers, vi. Badgers.	ibid.
Dyers, vi. Cloth.	ib.
Drunkennesse.	ib.

T A B U L A.

46	E.	
47		
47	E	Ecclesiasticall causes and
48		persons. 58
ibid.		Egges of wild fowle. 59
49		Egyptians. ibid.
ibid.		Embezzeling, vid. Records. 60
ibid.		Embracerie, vi. Maintainer. ib.
50		Endictments. ibid.
ibid.		Enquirie. 64
ibid.		Escape. 65
51		Escheators. 67
ib.		Evesdroppers. ibid.
52		Evidences. ibid.
53		Estreats. ibid.
ib.		Examination. 68
ar. ib.		Extolling forraine power, vid.
55		Treason. 69
ibid.		Extortion. ibid.

F.

56	F	Faires and Markers. 70
ibid.		False imprisonment, vide
ib.		Arrest. ibid.
56		False Takers, vi. Cozeners. ib.
ibid.		Fees. ibid.
59		Felo de se. 73
ibid.		Felonie. ibid.
ibid.		Ferrets, vi. Hunting. 78
ibid.		Fewell. ibid.
ibid.		Fines. 79
ibid.		Fish. 80
ib.		Flaxe. 82
ib.		Forraine power, vi. Treason. ib.

Forraine Pled, vi. Triall. 82
Forcible Entry. ibid.
Forcible Detainers. 83
Forgerie. 95
Forraine Plea. 96
Forestalling. ibid.
Fishing and Fowling. ibid.

G.

G	Ames, vide Palmfall
	Games. 97
	Gaole and Gaoler. ibid.
	Glasse-men. 98
	Goldsmith. 99
	Good abearing. ibid.
	Greyhounds, vi. Hunting. 101
	Gunners and Guns. 102

H.

H	Ares. 103
	Harnesse & Habillments
	of war. ibid.
	Hart proclaimed, vi. Deere. ib.
	Harvest time. ibid.
	Hawkes and Hawking. ibid.
	Huy and Oates. 104
	Hedge-breakers. 105
	Highwaies. ibid.
	Homicide. 106
	Horses and Hares. 112
	Horse-bread. 114
	Hospital. 115
	House. ibid.

T A B U L A.

House of Correction.	115
Hunting.	117
Hundred.	119
Hue and Crie.	120

I.

I esuites & Seminary Priests.	121
Imprisonment, vi. Prison.	122
Indictment, vide Endictment.	ibid.
Information.	ibid.
Informers and Promoters.	ib.
Ingrossers.	123
Inte-holders.	ibid.
Inmates, vi. Cottages.	ibid.
Involment.	124
Issues.	ibid.
Judgement.	ibid.
Jugglers, vi. Licence.	ibid.
Jurors and Inuries.	125
Iustices of the Peace.	127

L.

L abourers and Servants.	131
Larceny.	136
Learher.	141
Leets.	146
Lent, vi. Fish-daies.	ibid.
Liberty and Franchises.	ibid.
Libellors.	ibid.
Licenses.	147

Linnen cloth.	148
Long Bowes, vide Archerie.	ibid.
Log-wood and Block-wood.	ibid.

M.

M ansons.	149
Maintainers and Embracers.	ibid.
Mainprise, vi. Bailment.	ibid.
Maibem.	150
Mault.	ibid.
Man-slaughter, vide Homicide.	ibid.
Marriners.	151
Market Overt.	152
Marriage.	153
Masse.	ibid.
Master, vi. Servant.	ibid.
Measure and weight.	ibid.
Messages false.	ibid.
Milch Kine, vi. Calves.	ibid.
Minstrils, vi. Rogues.	ibid.
Misprision.	ibid.
Mitigation of Fines and Forfeitures.	156
Mittimus.	ibid.
Monasteries, vi. Religious Houses.	157
Mortuaries.	ibid.
Multiplication of gold and silver.	ibid.
Murder.	ibid.
Musters.	160

Navie.

T A B U L A.

N.

148	cherie	
ibid.		
od. ib.		
	N. Avie.	161
	Nets, vi. Hunting.	ibid.
	Next Iustice.	ibid.
	Night-walkers, vi. Watchers.	ibid.
149	Noble personages.	ibid.
Em.	Non sane memorie.	162
ibid.	Nusans.	ibid.

O.

icid.	O Bedience to the King.	163
151	Officii Colore.	ibid.
ibid.	Ordinarie.	ibid.
152	Oath.	ibid.
153	Orchards and Gardens, vide	
ibid.	Hedge-breakers.	165
ibid.	Overseers of the poore.	166

P.

ibid.	P Ardon.	166
ibid.	Parkes.	168
For-	Parson and Vicar, vi. Ecclesi-	
156	asticall Cases.	168
ibid.	Partridge and Pheasant.	ibid.
Hou-	Peace.	171
157	Peeres, vide Noble personages.	
ibid.		172
d fil-	Pedlers, vi. Rogues.	ibid.
ibid.	Periury.	ibid.
ibid.	Pettie Treason.	173

Pewter, vi. Brasse.	173
Physician.	ibid.
Playes and Players, vi. unal-	
full Games & Rogues.	174
Plague.	ibid.
Plaints in Court.	176
Ponds, vi. Fish.	ibid.
Poysoning, vi. Murther.	ibid.
Pope and Popish bookes.	177
Poore people.	ibid.
Power of the Countie.	180
Preachers.	181
Precept, vi. Warrant.	182.
Premunire.	ibid.
Presentment.	183
Principall, vi. Accessary.	184
Prisoner and Prisoners.	185
Processe.	187
Proclamation.	190
Promoters, vide Informers.	
	ibid.
Propheying.	ibid.
Purueyors.	191
Putting out of eyes.	193

Q.

Q Varter Sessions, vid. Ses-	
sions.	193

R.

R Ape or raviishment.	193
Rates, vi. Taxations.	194
Records.	194 & 197
Rebellious	

T A B U L A.

Rebellious assemblies.	194
Recognisance.	196
Recusants.	198
Regrator.	205
Release.	ibid.
Religious houses.	207
Replevin, vide Bailement.	ib.
Rescous.	ibid.
Restitution.	208 & 210
Returne.	211
Riots.	111 & 114
Rivers.	220
Rogues.	222
Robbery.	226
Rout.	229

S.

Sacrilege.	230
Sacraments.	ibid.
Salt-peter men.	ibid.
Schoolemaster.	ibid.
Seditious Sectaries.	231
Servants, vide Labourers and Apprentices.	ib.
Serving-men, vide Testimoni- all.	ibid.
Sessions of the peace.	ibid.
Sewers.	233
Sheep.	ibid.
Sheriffe.	234
Shoes and Boots.	237
Shooting, vide Archery.	ibid.
Cros-bowes, vi. Partridge.	ibid.
Sope, vide Vessels.	ibid.

Souldiers.	21
Star-chamber.	21
Stolen goods.	ibid.
Stewards of Courts.	ibid.
Stocks of the Shire.	21
Subsidie.	ibid.
Suggestion, vide Information.	ibid.
Summon of Sessions, vid. Sessions.	24
Sunday.	ibid.
Superseas.	24
Supplicavit.	24
Supremacie.	ibid.
Surety of the Peace.	ibid.
Suspicion of Felony.	25
Swans.	ibid.
Swearing.	25

T.

Taxation.	25
Tale-bearers, vide Newes.	ibid.
Tanner, vi. Leather.	ibid.
Taverne-keeper.	ibid.
Testimoni- all.	ibid.
Theft.	25
Threatning.	26
Tile-making.	ibid.
Tipling.	26
Tythes.	ibid.
Toll.	26
Transportation.	26
Treaverse.	26

Travelling

TABULA

travelling beyond the sea.	269		
travellers.	270		W.
treason.	271		
trespasses, vi. Hedge-breakers.	274		
tryall.	ibid.	W Ages.	281
		Wainlings.	282
		Warrant.	283
		Watches.	286
		Watermen.	287
		Waxe.	288
		Waxes in Rivers.	ibid.
		Weights and Measures.	ibid.
		Whitchcraft.	289
		Wines.	ibid.
		Wood.	ibid.
		Wool, and Wool-sellers.	291
		Wollen-yarne.	ibid.
		Women.	292

Courteous

Courteous Reader,

IN all those places of this following Treatise where M. Dalton's Country Justice is vouched for its authority, be pleased to take notice, that this Author followed the former Edition thereof; and therefore rather have recourse to the Alphabetical titles in *Dalton*, than the page, which for the most part failes, by reason of some additions to that worke in this last Impression printed by the Assignes of *John More*, Esq.

Abjuration.

Justice of Peace cannot arraign a man upon his abjuration for felonie. *Lam. 519. Lam. 551.*

2. Abjuration of a seditious seditarie made in open quarter Sessions must be certified to the Judge of Assize at the next Assize. *35. El. cap. 1. Lamb. 555. Lamb. 590, 615.*

Vide plus Recusant. 110. 6.

Absolve, vide Treason. 15. 6.

Accessarie and Principall.

Who shall be an accessarie before the fact.

1. Abbettoir, procurer, or consenter to a felonie. *Dal. 250. Cro. 41. Lamb. 282, 285. Lamb. 283, 286. Stam. 44. 0.*

2. Commander of an evil act is accessarie to the felonie proceeding thereof: as if death proceed of beating or robbing. *Dal. 250. Cro. 42. a. Lam. 286.*

3. Commander of one felonie whereby another ensueth, is accessarie to the first: as, A commandeth B to fire the house of C, and thereby many are fired. *Lamb. 286, Lamb. 287.*

4. Commander of a felonie, though it be executed in another fashion, time, and place, or manner then was commanded. *Dal. 250. Lamb. 286, Lam. 287. Cro. 42. a. n. 14.*

A

who

Who not.

The felonie commanded is executed on another person, the commander is not accessarie. *Lam. 287.*

The commanded performing more then was commanded, committeth felonie, the commander is not accessarie. *Lam. 287.*

The commander of one felonie to be done to a man, is not accessarie to another kinde of felonie committed against the said partie: as, one counselled to poyson *A*, giveth it to *A* and *B*: the counsellor is not accessarie to the murder of *B*. *Lamb. 287. nu. 16.*

The knower of a felonie without consenting. *Lam. 288, Lam. 289. Dal. 251. Cro. 41. b. nu. 8.*

One not partie nor privie who is present at a felonie, and doth not disturb it nor pursue the felon, is fineable. *Dal. 251. Lamb. 289. Cro. 44. 2.*

Accessarie after the fact.

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainer. *Dal. 251. Cro. 41. a. Dal. 251.*

Receiver or comforter of a felon with an evil intent. *Lam. 289. Dal. 251.*

Arrester of a felon by hue and crie taketh the goods and letteth him go. *Lam. 289, 290.*

One pursuing a felon for his own goods, taketh money of him not to give evidence against him, whereby he is freed. *Lam. 290.*

Receiver or comforter of an accessarie, knowing thereof. *Lam. 291. Dal. 254.*

Receiver of one brother, knowing him to be a felon. *Lam. 290, 291.*

Receiver of an approver or one attainted, or outlawed of felonie, knowing thereof. *Lam. 293.*

Accessarie and Principall. 3

To harbour a felon attainted in the same Countie. *Dal.* 252. *Cro.* 43. a. nu. 31.

But *Lam.* 293. holdeth it reasonable that he first have knowledge of such a record.

Receiver of stolen goods, knowing them to be stolen. *Cro.* 41. b.

Who not.

A sutor by word or writing for the deliverance of a felon, knowing thereof. *Lam.* 289, 290. *Dal.* 251.

Pursuer of a felon for his own goods, taketh them again and letteth him go. *Lam.* 289. *Dal.* 253. *Lam.* 290. *Fitz.* 32. b. 33. b.

Reliever or receiver of one bayled for felonie. *Lam.* 290. *Dal.* 252. *Cro.* 42. b.

Buyer of stolen goods, knowing thereof. *Lam.* 291. unless he receive the felon. *Cro.* 42. a. nu. 17. *Dal.* 253.

The wife receiving the husband, knowing him to be a felon. *Lam.* 291, 292. *Fitz.* 33. b.

Receiver of the striker of the stroke after the stroke and before the death. *Lam.* 292.

Felonie by statute hath accessaries before and after the fact, as a felonie hath at the common law, though the statute speak not thereof. *Lam.* 285. *Lam.* 286.

After acquittall as principall one may be arraigned as accessarie after the fact, but not before the fact. *Lam.* 292, 557.

One may be accessarie to an accessarie: as, if one feloniously receive or comfort an accessarie. *Lam.* 290. *Dal.* 254. *Cro.* 42. b. *Lamb.* 291.

A 3

Who

4 Accessarie and Principall.

Who shall be said a Principall.

Those of the Societie of a felon and present at the fact, though not actours. *Dal.* 172, 212, 249.

Cap. 22, 2. *nu.* 10, 15. *Stat.* 40. 2.

An abbettour, procurer, or receiver of a woman, knowing her to be taken away contrarie to the statute. 3. *H.* 7. *cap.* 2. *Lam.* 285.

Accessarie in one countie to a felonie done in another countie, may be indicted where he becometh accessarie. 2. & 3. *Ed.* 6. 24. *Dal.* 52.

It is no good indictment against an accessarie, to say that he received the goods, without saying he received the felon. *Lam.* 472, 509, 291.

Acquittall, *vide* Enditements.

Additions.

In every indictment or presentment where outlawry lyeth, the estate of degree or mysterie, the town, hamlet, or place where the indicted dwelleth, are to be added. 1. *H.* 5. *cap.* 5. *Lam.* 488.

What shall be a good addition of degree or estate.

Baron, Knight, Esquire, Gentleman, Alderman, widow, single woman, Dean, Archdeacon, Parson, Doctour, Clerk, parish-clerk. *Lam.* 461, 471. *Lam.* 489.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain, as farmer, servant, butler, chamberlain. *Lam.* 462, 489.

What

*What shall be a good addition of
mysterie.*

Chopchurch, merchant, grocer, mercer, taylour,
broker, husbandman, hostler, literman, waterman,
spinster. *Lamb.* 462, 489.

What not.

That which is no mysterie nor degree, as citi-
zen; nor any unlawfull trade, as extortioner, main-
tainour, vagabond, heretick, dicer, carder, &c. *Lamb.*
462.

Addition of degree or mysterie must be as the
partie then is. But addition of the place may be
such whereof he was. *Lamb.* b. 463, 489, 490. *Ed.* 4. 2. 2. *Ed.* 4. 10.

Addition of degree and mysterie must be knit to
the proper person. *Lamb.* 462, 489.

The statute of the 1. H. 5. chap. 5. of additions
doth not extend to informations.

What shall be a good addition of place.

Either of the Town or parish, if they be both of
one name. *Lamb.* 463, 490.

Of the Town onely, where there be two towns
in one parish. *Lamb.* 463.

Either of the Town or Hamlet, if there be two
hamlets in one town. *Lamb.* 463. *ibid.* *Lamb.* 490.

Of the Town, if the person be of a place known
within the town. *Lamb.* 463. *Lamb.* *ibid.*

Addition must comprehend the County, Town,
or Hamlet, whereof the party is or was. *Lamb.* 462,
490.

Affray and Affrayes.

What not.

Of the place whereof he is person, without naming the place of his abode. *Lamb. 463, 430.*

Affray and Affrayes.

An affray may be without word or blow, as to be armed with armour or weapon not usually born. *Lamb. 118. Dal. 28. Lamb. 126.*

Constable or other officer may lay no hands on any intending to make an affray, till weapon drawn or offer of blow. *Lamb. 124. Dal. 29. Lamb. 132.*

Vide plus Constable.

Affrayer may be commanded by the Constable or other officer, to ayoid upon pain of imprisonment: and if the affray be great, they may make proclamation, and command the parties to prison for a small time; whom he must deliver without fine. *Lamb. 124. Dal. 28. Lamb. 132.*

Every private man present at an affray, assault, or battery, may part them, stay them that come to the affray with weapon, stay the affrayers till the heat be over, and then deliver them to the Constable; but may not commit them, unlesse one of the affrayers be in perill of death; and if he flie into a house upon hue and crye, break and open the house and take him. *Dal. 28. Lamb. 130, 131. Cro. 146. 2.*

Agnus Dei, Crosses, Beads, Pictures, &c.

If any person to whom any of these, or any other superstitious things from the See of Rome or authority thereof be offered, do disclose the name, dwelling, or place of resort of such officer or deliverer,

verer, to any Iustice of Peace of the same shire, the same Iustice must within fourteen dayes next after declare the same to some one of the Privie Councell on pain of Premunire. 13. *El. cap. 2. Dal. 80. Vide plus* Treason, Misprision, and Premunire.

Alehouses.

Two Iustices, one being of the Quorum, may license one to keep a common Alehouse, taking bond with good suretie for good rule to be kept in his house. 5. *Ed. 6. cap. 25.*

Twelve pence is given to the two Iustices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouse. 5. *Ed. 6. cap. 25. Lamb. 356, 370.* Condition of a recognizance for an Alehouse. *Lamb. 344, 354.*

He that keepeth an Alehouse of his own authoritie, without license of two Iustices, one being of the Quorum, or after prohibition of two such Iustices, may by two such Iustices be committed to prison for 3 dayes without bayl, and till he be bound with two sureties to keep none after. *Dal. 26. Lamb. 340. Vide stat. 3. Car. 3.*

Information of the offence and recognizance taken by two Iustices, one being of the Quorum, of an Alehouse kept against the statute of 5. *Ed. 6. cap. 15.* is a sufficient conviction without further tryall at the Sessions: and they may asseste the fine of 20 shill. without making processe against the offender. *Lamb. 539, 552. Lamb. 572.*

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognizance, they may award processe against him, to shew why he should not forfeit his

recognizance. Quære what proceſſe, *Lam.* 495, 499, 524, 529.

Enquire whether Alehouſe-keepers having forfeited their recognizance, ought to be at the Q. Sessions. 5. *Ed.* 6. 25.

Fines impoſed by the ſtat. of. 5. *Ed.* 6. cap. 25. concerning Alehouſes cannot be altered by the Juſtices of Peace. 5. *Ed.* 6. 25. *Lamb.* 545, 578.

Juſtices of Peace muſt certifie the recognizance taken for Alehouſes at the next Q. Sessions after they are taken, or loſe 5 marks. 5. *Ed.* 6. cap. 25.

Any directly or indirectly ſelling Ale or Beer unto any Alehouſe-keeper not licenſed, more then for his neceſſarie proviſion for his houſhold, ſhall loſe after the rate of 6 ſhill. 8 pence for every barrell for the levy and diſpoſall of the penaltie. See *Viſtuals.* 4. *Jac.* 4.

Alehouſe-keeper or Inne-keeper ſuffering any tipling contrarie to the 2. *Jac.* cap. 9. 21. *Jac.* 7. forfeiteth 10 ſhill. and every ſuch tipler 3 ſhill. 4. pen. for non abilitie of payment the Alehouſe-keepers, &c. to be committed to the Goale till the penaltie be payed, 2. *Jac.* the tipler to the ſtocks for 4 houres, 4. *Jac.* *Dal.* 24, 25. 1. *Car.* 4.

Juſtice of Peace hath power in thoſe caſes to miniſter an oath to witneſſes. 1. *Jac.* 9. 21. *Jac.* 7.

The Conſtables and Churchwardens neglecting to levie, or to certifie the cauſe thereof by 20 dayes to the Juſtice that granted the diſtreſſe, do forfeit 40 ſhill. in default thereof to be ſent to the Goale. 1. *Jac.* 9. *Dal.* 25. *Crom.* 78. 2. Alehouſe-keepers and Inne-keepers ought to lodge travellers, *Dal.* 25.

1. Alehouſe-keepers are diſabled to keep Alehouſe 3 yeares if they ſuffer tipling.

2. If

2. If they sell not a quart of the best, and 2 quarts of small beer or ale for a peny.

3. If they be convicted by Indictment at the Assizes, Sessions, or Leet, for being drunk, 4. *Jac.* 10. or before one Justice upon oath of one witnesse, 21. *Jac.* 7. continue drinking in another Alehouse, 7 *Jac.* 10. 4. *Jac.* Dal. 27. *Vide plus* Victuallers Confession.

If any unlicensed Alehouse-keepers be convicted by the view of any Justice of the Peace, confession of the offender, or oath of two witnesses, he loseth 20 shill. to the use of the poore of the parish to be levied by way of distresse by warrant from the Justice of Peace convicting, and within 3 dayes to be sold, 3. *Car.* 3.

Where there is no sufficient distresse or non payment, within six dayes after conviction, the offender is to be openly whipped as the Justice of Peace shall limit, 3. *Car.* 3.

The Officer, refusing or neglecting to execute the Justice his precept, is to be committed to the Goale untill he do or procure the offender to be whipped or pay 40 shill. to the use of the poore of the said parish, 3. *Car.* 3.

The second offence is commitment to the house of Correction for a moneth, *ibid.*

The third offence is to remain in the house of Correction till he be delivered at the generall Sessions, *ibid.*

He that is punished by the act 3. *Car.* 3. not to be punished by the statute, 5. *Ed.* 6. 25.

Alias dictus, *vide* Enditement.

Alien and his triall, *vide* Triall.

Alleagiance, *vide* Supremacie.

Amer-

The owner of a beast, knowing it to be harmful and not restraining it, whereby it killeth one, is to be arraigned for his death and amerced for the King. *Lam.* 239. *Dal.* 210. *Cro.* 24. 6.

Offenders in gathering more amerciamentis then are in their lawfull estreats, to be convicted by two Justices, one to be of the Quorum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum for the oversight of the Sherifffes. 11. *Hen.* 7. *cap.* 15.

Estreats of amerciamentis must be by Indenture between the two Justices (appointed for oversight of Sherifffes books) and the Sherifff or Under-Sherifff under their seals, or else the Sherifff to lose 40 shill. 11. *Hen.* 7. *cap.* 15.

No amerciament for default of appearance when the Sessions are not summoned by precept. *Lam.* 381. or when the summons is at one place, and kept at another.

Or when the Sessions were the same time at two places, and the partie appeared at one of them. 384.

One Justice of Peace cannot amerce his fellow for absence from the Sessions; but a Justice of Assize may amerce a Justice of Peace for his absence from the Goale-deliverie. *Lam.* 385.

Clerk of the Peace, Coronours, Sherifffes, Bayliffes of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions. *Lam.* 395.

Amerciamentis of Jurours for concealment, vide Jurours. *Lam.* 400, 401.

Appearance.

Appearance.

II

Recognizance taken for the Peace against all the Kings people, and to appeare at the next Sessions by Superfedeas out of the Chancerie, testifying suretie found there against all the Kings people for ever, will discharge the appearance of the next Quarter Sessions. Otherwise it is, if it be but untill a day certain. *Lam.* 106, 107. *Dal.* 140, 141.

Who shall be amerced for default of appearance and who not, *vide*

Amerciaments, *vide* Release.

Apparell, stat. repealed.

Appreachment, *vide* Approvers.

Appeal.

Iustice of Peace can take no appeal of any felonie.

Appeal of robbery, *vide* Attainder.

Apprentices.

One thought fit to be bound as an Apprentice upon complaint made, and refusing to be bound, shall be committed till he will be bound. 5. *Elis.* 4. *Dal.* 59.

Upon complaint of an apprentice one Justice may take order betwixt his master and him, and for want of conformitie in the master, may binde him to appeare at the Quarter Sessions. *Dal.* 59. and to be discharged by foure Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of correction. *Dal.* 60.

Assent of two Justices is sufficient to the Churchwardens or overseers, or the most of them, to binde as apprentices the sonnes of poore parents till 24 yeares of age, or their daughters till 21 yeares of age. 39 *Elis.* 3. *Lam.* 327. 43 *Elis.* 2. *Dal.* 63. *Lam.* 331.

Disposi-

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by corporation, and in towns not corporate by the Parson or Vicar, Constable, Churchwarden and Overseers for the time being, or most part of them, the same to be according to the will of the giver: And any of the disposers forbearing and refusing to dispose of the money, whereby it is not disposed, shall lose 3 pounds 6 shillings 8 pence, one moytie to the poore of the parish, the other to the informer. 7. *Jac.* 3.

Disposers of such money given for apprentices; are to take bond with two sureties of such master or masters, for such money as they shall so receive, for the repaiment thereof at the end of seven yeares, or 3 moneths after. 7. *Jac.* 3. Or if the apprentice die within 7 yeares, then to repay the money within one yeare after such master or masters death. 7. *Jac.* 3.

The master or masters dying within 7 yeares, the disposers are with the said money to put out the said apprentice to some of the said trade, to serve out the residue of his 7 yeares. 7. *Jac.* 8.

Money given for putting forth apprentices is to be disposed within three moneths after receipt. *Ibid.*

None above 15 yeares old are to be placed by the disposers, and those to be of the poorer sort; and for want of such they may chooise others of the parish next adjoyning. *Ibid.*

Disposers of money for apprentices are to account before two Justices next adjoyning yearly in Easter week, or within a moneth after; and within 20 dayes after such account made, must deliver all such money and bonds remaining in their hands. *Ibid.*

Breakers

Approvers or Appeachers. 13

Breakers of trust for disposing money given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within three moneths, and the partie grieved by an act of the Commissioners is to be relieved upon his Bill in Chancery. 7. Jac. 3.

Certificate to the head-officer of citie or borough, that the parents of an apprentice to a merchant, mercer, draper, goldsmith, ironmonger, embroyderer, or clothier, may dispend 40 shill. freehold, must be under the hands and seals of three Justices where the land lieth. 5. Elis. cap. 4.

Apprentice is to be discharged by foure Justices in open Sessions. Dal. 60.

The discharge of an apprentice is to be inrolled by the clerk of the Peace. 5. Elis. 4. Vide plus Labourers.

A master putteth his apprentice into apparell; he cannot take it away though he part with his apprentice. Dal. 93. edit. 1626.

Approvers or Appeachers.

Goaler, keeper, or under-keeper by pain compelled his prisoner to become an appeacher of others, it is felonie. 14. E. 3. cap. 10.

Justice of Peace can take no appeal of an approver. Dal. 276. Lam. 550.

One felon accuseth another before the Justice of Peace; they may take his confession and reprove him, and so proceed against the other. Lam. 551.

Archerie.

The statute of Bowes is not repealed.

Armour.

Any (except the kings officers and their compa-
nie doing their service) riding or going armed, or
bringing forth in affray of the people, are to be im-
prisoned and lose their armour. 2. *Elif.* 3. *cap.* 3.
Dal. 30. *Cro.* 76. 2.

Iustices of the Peace not looking to the executi-
on of the statute of fearing the countrey with go-
ing or riding armed, upon inquirie by the Iudges of
Assize are to be by them punished. 2. *E.* 3. *cap.* 3.

The counterpart of the indenture of armour to
be kept by the clerk of the Peace. 4 & 5 *Ph. & M.*

The statute 4 & 5 *Phil. & Mary* concerning
keeping of horses and armour, with the penalties
thereof, are repealed. 1. *Jac.* 25.

Armour and munition of a Recusant convicted,
being in his own possession, or at his dispose, other
then such as shall be thought meet for the defence of
his person and house, by warrant of foure Iustices
at the Quarter Sessions are to be seised and kept at
such place as the foure Iustices at the Sessions shall
appoint, at the cost of the owners; and they con-
cealing or disturbing the deliverie of it, lose the
armour and munition, and by warrant from any
Iustice of Peace, to be imprisoned three moneths
without bail. 3. *Jac.* 5. Recusant having his ar-
mour seised, is to be charged with such armour and
horse, as he and others of his Majesties sub-
jects shall be commanded to serve with at musters.
3. *Jac.* 5.

Any Iustice of Peace may arrest any (except the
Kings officers, and such as do him service) that go
armed, and binde them to the peace, or good beha-
viour. *Dal.* 30. *Crom.* 76. 2. *Lam.* of Const. 13.

A Iustice of peace may cause weapons to be taken
from prisoners brought before him, *Dal.* 30.

No servant in husbandry, artificer, victualler, or labourer, shall wear sword or dagger. 15. H. 2. *Dal.* 30. *Cro.* 76.

Arrests.

An arrest is a certain restraint of a mans person, depriving it of its own will and liberty, and binding it to become obedient to the will of the law. *Dal.* 294. *Lamb.* 87. *Lamb.* 93.

All lay persons under the degree of a Baron or Peer of the realm, are subject to an arrest. *Lamb.* 88. *Lamb.* 93. *Dal.* 131, 294.

Ecclesiasticall persons not attendant upon divine service, may be arrested for the peace. *Lamb. ibid.* *Lamb. ibid.*

Constable, or Justice of peace coming to arrest an affrayer, if he flie into another house, they may in fresh suit break open the doore and take him so, if he flie into another County. *Lamb.* 134.

All that come to the Sessions for publick service or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon originall proceffe. *Lam.* 402.

Bayliffe taking above 4 pence for any arrest, shall forfeit 40 shill. 23. H. 6. cap. 10.

Arrest of Riotters, *vide* Riot.

Arrest, *vide* Sheriffe, *vide* Prison.

The officer ought to require the party to come and finde surety of the peace, before he arrest him, by the opinion of 5. Ed. 4. 15. *Lamb.* 85. *Lamb.* 90.

If one required by the officer upon warrant to finde surety of the peace, refuse, the officer by virtue of his warrant may convey him to prison. *Lamb.* 86, 88. *Lamb.* 92. *Dal.* 138.

All are subject to arrest under the degree of Barons or Peeres of the realm. *Dal. 294. Lamb. 93.*

A Constable taking an affrayer may not imprison him in his house, but in the stocks. *Lamb. 133.*

Arraignment.

Arraignment is commonly a compulsory coming of one indicted of a matter touching life or such heinous offence, and a pleading not guilty. *Lamb. 546, 517.*

One coming in freely, and indicted of an inferior offence, may be arraigned. *Lamb. 547.*

One arraigned of felony, if his case will serve, may plead a justification or matter in law. *Lamb. 547.*

Artificers, *vide* Labourers.

Affault.

Affault cannot be made without the offer of some hurtfull blow, or at least of some fearfull speech. *Lamb. 119. Lamb. 126.*

To rebuke a collector with foul words, so that he depart with fear without doing his office, was taken for an assault. *Lamb. ibid.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault. *Lamb. ibid.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined. *Lamb.*

Servant or workman convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a yeare, and any other corporall punishment saving life and member. *3. E. cap. 4. 5. Dal. 61. Gro. 84. a.*

Assize of Bread and Beere. 17

If another assault me, if I may escape with my life, it is not lawfull for me to beat the other. *Dal.* 204.

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal.* 151. *Dal.* 205. Yet by opinion of *Elyot.* 12. H. 8. fo. 2. 6. it is not lawfull, except there be such perill as another is like to perish if there be no help. *Dal.* 205. *Edit.* 1626.

Assemblie lawfull, *vide* Unlawfull assemblie.

Assize of Bread and Beere.

Any Brewer, or Baker, or Tipler, breaking the Assize of Bread and Ale, to be fined. 13. R. 2. & 8. *Lam.* 435, 419.

Any officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporall punishment, is to be fined. 13. R. 1. 2. 8. c.

Attainder.

One attainted of felonie may be arraigned for treason committed before or after the attainder. *Lam.* 557, 558.

One attainted upon an appeal of robbery, may be arraigned upon an appeal of robbery at anothers suite. *Lam.* 558.

One attainted of felonie by standing mute, may after be arraigned of another felonie. *Lam.* 558.

One attainted of felonie cannot after be arraigned of another felonie so long as the first is unpardoned, unlesse it be in the cases before. *Lam.* 557.

B

After

After the attainder the felons grant of goods or lands bindeth all persons, except the land-lord to whom the escheat. *Dal.* 258.

Indictment is when an offence is found by the great inquest, or other jury of inquirie.

Conviction is when the offender is found guiltie by a second jury, having put himself to tryall.

Attainder is when after such conviction judgement is given against the offender. *Dalt.* 295.

A wait lying, *vide* Way-lying.

Averments.

No man shall be received to averre or speak against a record. *I am.* 60.

Badgers and Drovers.

License to badgers and drovers and loaders of corn must be in open Sessions, and there registered and kept by the clerk of the Peace. *5. Elis. cap. 12. Lam.* 610.

Offences against the statute of badgers and drovers, may be enquired of aswell by examination of witnesses, as by presentment. *5. Elis. cap. 12.*

The forfeiture due to the informer upon the statute of badgers and drovers, is to be levied by *Fieri facias*, or *Capias* awarded by the Justices of Peace. *5. Elis. cap. 12.*

Baylment.

Baylment, Mainprise, or Replevin, is the saving or delivering a man out of prison before he hath satisfied

satisfied the law; so by finding sureties to answer and to be justified by the law. *Dal.* 269. *Lam.* 330. *Lam.* 340.

He that is bayled is delivered into his sureties hands to be kept. *Dal.* 269. *Cro.* 152. b. *Stam.* 65. a.

If the sureties doubt the escape of the prisoner bayled, a Justice of Peace upon prayer may discharge the sureties and commit the partie to prison. *Dal.* 269. *Cro.* 153. a. 157. a.

A Justice of Peace may cause the bayled to finde better sureties. *Dal.* 269. *Cro.* 152. b.

It is requisite to take two subsidie men for bayl, especially if it be for felonie or suspicion thereof. *Dal.* *ibid.*

To detain a prisoner that is baylable, is fineable. *Dal.* 270.

To bayl one not baylable is a negligent escape. *Dal.* 270.

Justice of Peace bayling contrary to the law, or not certifying the bayl and examination of the felon, is fineable by the Justice of Goal-delivery. *Lam.* 345. 1. & 2. *P. & M.* 13. *Dal.* 271. *Cro.* 167. *Lam.* 335.

Where one is baylable, he must offer sureties. *Dal.* 272.

For what offences a man is not baylable by a Justice of Peace by the statute of W. 3. Ed. 1. 15. Cro. 156. a. Lam. 345.

1 Abjured the realm. *Dal.* 273.

2 Approver or appellour. *ibid.*

3 Appealed by an approver. *ibid.*

4 Burning a house feloniously. *ibid.*

- 5 Excommunicat, taken at the Bishops request. *ibid.*
- 6 Felon taken with the manner. *ibid.*
- 7 A known thief and defamed. *ibid.*
- 8 Outlawed. *ibid.*
- 9 Prison-breaker. *ibid.*
- 10 Traytour to the King himself. *ibid.*
- 11 Falsifier of the Kings money. *Dal.* 274.
- 12 Counterfeiter of the seal. *ibid.*
- 13 Attainted or convicted of felonie. *ibid.*
- 14 Accessarie to two felonies, if one principall be attainted. *Dal.* 275.
- 15 Death of man, if he be principall. *ibid.*
- 16 Taken upon proces of rebellion issuing out of Chancerie or Starchamber. *Dal.* 276. *Lam.* 347.
- 17 Arrested by proces, writ, bill, or warrant in an action personall. *ibid.*
- 18 Persons convicted of felonie, praying Clergie and reprieved. *Dal.* 274. *Cro.* 154. 2.

For what offences a man is not baylable by a Justice of Peace.

A Justice of Peace is not to bayl but in causes which he may heare and determine. *Dal.* 276. *Lam.* 340.

Murder or any other homicide. *Dal.* 272.

Confessing the fault of manslaughter. *ibid.* *Lam.* 34.

Taken in the manner for killing. *ibid.*

Known to have killed a man,

By the King or his privie Councell. 272.

By the absolute, not ordinarie command of the Kings Justices. *ibid.*

For trespasses in the forrest. *West.* 1. cap. 15

Confessing

Confessing the felonie whereof he is accused.

Imprisoned for suretie of the Peace. 23. Hen. 6.

Lam. 346.

Speciall commandment of any Justice. 23. H. 6.

Lam. *ibid.*

Where Bayment is taken away by statute, *vide* Dal. 276. Lam. 340. Lam. 349.

For what offences a man is baylable.

Taken for light suspicion. Dal. 274.

Indicted of pettie larcerie, not being formerly guiltie of another. *ibid.*

Charged, & With the receipt of thieves, of felons. Dal. 275.

2 Of commanding force or aid. *ibid.*

3 With the trespasse that toucheth not losse of life or member. Dal. 275. *west.* 1. 15. if not prohibited by some latter statute appealed by an Approver being no comon thief, nor defamed after the death of the Approver. Dal. 276.

Indictment of manslaughter and acquitted. Lam. 347.

Arrested by force of any writ, bill, or warrant in any action personall, or upon any indictment of trespasse. Dal. 276.

Acquitted of murder or manslaughter at the Kings suit, baylable during the year. 3. H. 7. cap. 1. Lam. 347.

Imprisoned by proces out of the Sessions upon penall laws not forbidding bayl, baylable out of the Sessions by two Justices, one being of the Quorum. Dal. 275. Lam. 348.

Accused of homicides which are not felonie.

Accessarie to felonies. Dal. 275.

If they be found of good fame untill the principall be convicted or attainted: but after, the principall is attainted he is not baylable, except he plead not guiltie or other plea. *Dal. ibid.*

Principall in burglarie. *Dal. ibid.*

Principall in an indictment of robbery. *Dal. ibid.*

Principall in an appeal of robbery. *Dal. ibid.*

Attached by Sessions proces upon indictment of trespassse, may be bayled by one Justice of Peace to appeare at the day to answer the indictment, and may make his supersedeas *cap. indict.* and so of the exigent. *Dal. 276.*

In every baylment which must be by two Justices, one of them being of the Quorum, the Justices must be present together at the time of the baylment, who before bayl taken must examine the prisoners, and receive the information of them that bring them: all which with the baylment they must put in writing, signed or subscribed with their own hands, and certified at the next Goale-deliverie to be holden in the countie. 1 and 2. *P. & M. cap. 13. Dal. 259, 271.*

The said Justices have authoritie to binde all persons that can evidence, to appeare the next Goale-deliverie to give evidence against the partie at the time of his triall. *Dal. 259.*

Some stat. not onely take bayl from the offenders thereof upon their solemne conviction after judgement, but also upon the record of one or two Justices, or by examination or proof of witnesses, or other such private triall had before them. *Lam. 349. for the form of baylment. 31. Lam. 252. Dal. 34. The form of the liberate. ibid.*

Bayliffes.

Bayliffe is punishable in false imprisonment, if he compell the partie to go before any other Iustice then he chuseth. *Lam.* 89.

But now the law is adjudged to be, that the Bayliffe or Constable shall chuse the Iustice. *Dal.* 138. and *Cook* 5. 19. 6. Fosters case.

As the Bayliffe may not compell him that is arrested for suretie of the Peace, to go before him that granted the warrant: so it is not reasonable that the Bayliffe shall be drawn out of the division and limite where they both dwell. *Lam.* 89, 90, 95. *Dal.* 138.

A Bayliffe arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment. *Dal.* 291, 295. *Lam.* 85. *Cro.* 149. 2. *Lam.* 90.

A Bayliffe arrests one by warrant for the Peace, the Iustice will not binde the partie, no action lieth against the Bayliffe. *Dal.* 1. *Lam.* 85, 91.

Two Iustices of Peace, one being of the Quorū, may give unto the Bayliffes of Franchises before they exercise their offices, the oathes of 1. *Elif.* of supremacie, and 17. *Elif.* touching their offices, 27. *Elif. cap.* 12.

Bayliffe taking above 4 pence for an arrest, is to forfeit 40 shill. 23. *Hen.* 6.

Bayliffe of the hundred that executeth not a warrant against any default in the Sheriffes court, shall lose 40 shill. 11. *Hen.* 7. *cap.* 15, *Vide plus Warrants.*

Bakers, *Vide Affize of Bread.*

Barrettour.

A common Barrettour is he who is either a common mover, stirrer up, or maintainer of suits in laws in any court, or quarrells in the countrey, *Dal.*

31. *Lam.* 41. *Cro.* 84. and is to be bound to his good behaviour and imprisoned. *Lam.* 418, 440. *Vide plus Dal.* 31. *Cook* 8.36.

Bargain and Sale, *vide* Inrolment.
Bark of Trees, *vide* Leather.

Bastardie.

Two Justices of Peace, one being of Quorum, in or next to the parish, where a bastard left to the charge of the parish, or likely to be chargeable, is born, are to take order for the relief of the parish, keeping of the childe, and punishment of the reputed father and mother. 18. *Eliz.* 3. 7. *Jac.* cap. 4. *Dal.* 31.

The reputed father and mother not performing the order set down by two such Justices, the delinquent is to be sent to the Goale without bayl, except they put in sureties to perform the order, or appeare at the next generall Sessions of the Peace. *Dal.* 32.

All Justices of Peace in their severall limits, and in their Quarter Sessions may do all things concerning the statute, 18. *Eliz.* for Bastardy, which is limited to the Justices of Peace in severall counties. 3. *Car.* 4.

Reputed father to be bound in the good behaviour till the childe be born. *Dal.* 31.

Vide plus House of Correction.

If the putative father shall either before or after the birth of the childe, by practise of any other, convey himself away, or cause the mother to runne or leave her childe, such may be bound over to the next Goal-delivery or Quarter Sessions. *Dal.* 36. *Edw.* 16.26.

Battery

Battery.

Battery lawfull, *vide* Ryot, Assault, Breach of the Peace.

Bath & Burton, *vide* License.

Bawdery.

Bawdery is not meerly a spirituall offence, but mixeth and soundeth somewhat against the peace.

Dal. 160. Lamb. 112. Lamb. 119.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report, are gone to a suspected house in the night, may take company with him; and if he finde them so, he may carry them to prison or to a Justice, to be bound to their good behaviour. *Dal. 160.*

Resorters to bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Keepers of bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Bead, *vide* Agnus Dei.

Bearewards, *vide* License.

Beere and Beere-brewers, *vide* Victuallers.

Beggars, *vide* Rogues and poore people.

Blockwood, *vide* Logwood.

Bloudshed.

Presentment of bloudshed found in the Sheriffes turn and sent to the Justices of Peace, can neither be traversed before the Justices of Peace nor at the Sheriffes turn.

Bonds, *vide* Recognizances.

Bowyers.

The statute not repealed of 33. H. 8, 9.

Brasse

Brasier nor Pewterer may exchange or sell any brasse or pewter, but in open market or faire, or in his house, unlesse upon request of the buyer, on pain of 10 pounds for each offence. 19. H. 7. cap. 6. 4. H. 8. 7. and inquirable at the Sessions. *Lamb. 621.*

All working hollow wares of other lay metall then according to the assize of the lay metall wrought in London, or not setting their seal on, lose the wares. Searchers of brasse and pewter must be appointed by the Justice of Peace at Michaelmas Sessions. 19. H. 7. 6. 4. H. 8. *Lamb. 621.*

Breach of the Peace or good behaviour.

What shall be accounted a breach of the Peace.

To threaten one to his face to beat him at whose suit he was bound. *Lamb. 108. Dal. 148. Cro. 136.* or in his absence, if he after lie in wait to do it. *ibid. Lamb. 115.*

To command or procure one to do any unlawfull act against the peace, if it after be done.

Menacings, affrayes, assaults, injurious and violent handlings and intreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason. *Dal. 148. Lamb. 119. Lamb. 127.*

A Farmer, Tenant, or Commoner, by threats or blowes to repulse violence offered his land-lord or maior. *Dal. 151. Lamb. 121. Lamb. 129.*

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance,

gnizance, made for keeping of the Peace. *Lamb.* 108. *Dal.* 148. *Lamb.* 114.

What not.

In his absence to threaten to beat him, at whose suit he was bound to the Peace. *Dal.* 148.

Threats or moderate correction of the Master, Schoolmaster, Goaler, to those under their command, of Parents to the childe within age, of the Lord to his villain. *Dal.* 148. *Lamb.* 127.

To beat with rods a kinsman that is mad, to the end to reclaym him. *Dal.* 149, 150. *Lamb.* 128.

Constable, officer, or any of their company, to strike any for better execution of their office. *Dal.* 150. *Lamb.* 128. By threats or blowes to repulse violence offered to ones own person, wife, father, mother, childe, master. *Dal.* 151.

Preservation of his own goods. *Ibid.* *Lamb.* 129. and *Crom.* 136. b. affirm that the Master may beat him that doth assault or beat his servant: but *Dal.* maketh a quære of it, and that a Master may onely with sword or staffe defend him. 151. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, Turnament, or Barriers in the Kings presence, or by his command *De val.* *Dal.* 151. *Lamb.* 129.

To take ones goods wrongfully, if not from his person, *Lamb.* 130. *Dal.* 152. is no forfeiture of his recognizance.

So to take away anothers ward. *Dal.* *ibid.* *Lamb.* *ibid.*

To trespassse in anothers corn or grasse. *ibid.*

Trespasse lyeth at the Common Law, for threatening to beat one.

Vide

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his own person from beating, wounding, or killing: but if he may escape with his life, without being wounded, maimed, or hurt, it is not lawfull, except he first flie as farre as he can. *Dal. 150. Cro. 137.*

To take a dog of any kinde, or other thing, of pleasure from the person of another, or in his presence with force or violence, amounteth to a breach of the Peace. *Dal. 164. edit. 1626.*

Brewers, *vide* Victualers,

Bridges.

A man voluntarily maketh or amendeth a bridge, he is not compellable to do the same again, unlesse he and his ancestours have used so to do time out of minde. *Dal. 34. Cro. 186. a. b.*

It being not known who or what land is chargeable with the repairing of a decayed bridge, foure Iustices, one being of the Quorum, may tax the inhabitants and make collectours and overseers for the repairing of it. *22. Hen. 8. cap. 5. Dal. 39. edit. 1626.*

Justice of Peace, where a decayed bridge is, may award processe in the Countie where the partie or land chargeable is. *22. Hen. 8. 5.*

A bridge lying in a corporation, the hundred shall not be charged therewith; & *e converso*. *Dal. 40. edit. 1626.*

A bridge lying in two severall Counties, either must repair his part. *Dal. 40.*

Buckstalls.

One suspected to have offended against the statute, 19 Hen. 7. cap. 11. of deer-hayes, and buckstalls, &c. is to be examined by two Iustices of Q. Sessions, and being convicted by his own examination onely, is to be imprisoned till he finde suretie for the forfeiture, 19. Hen. 7. 11. Lam. 535, 630. the tenth part whereof the Iustice examining shall have. *ibid.*

Buggerie.

The sinne of buggerie with a man or beast, is felonie. 25. Hen. 8. cap. 16. 5. Elif. 17. Lam. 227, 256, 421.

Bull from Rome, *vide* Treasons.

Burglarie.

Burglarie is when one or two in the night time do break a dwelling house, or a Church, or the walls or gates of a citie or walled town, with an intent to do felonie, albeit they carrie away nothing. Dal. 223. Cro. 31. a. Lam. 260, 261, 403.

The night is from sun-setting to sun-rising, *ibid.* Lam. 258, 423, 424.

What act shall make a burglarie without entring into the house.

Putting back the leaf of a window. Dal. *ibid.* Cro. 33. b. Lam. 262.

Drawing the latch of a doore. Dal. *ibid.* Cro. 33. b. Lam. *ibid.*

Turning the key being on the inside. Cro. 31. b. Dal. *ibid.* Lam. 262.

Breaking the glasse window, and hooking out of goods, *ibid.* Lam. 16.

Making

Making a hole in the wall, and shooting one within the house. *Dal.* 223. *Cro.* 31. b. *Lam.* 263.

The doore being open, to put his hand over the threshold, and discharge a dag at any within. *Dal.* *ibid.* *Cro.* 32. a. *Lam.* 264.

They within cast out their money for fear, and they without carry it away. *Dal.* 16. *Cro.* 31. b. *Lam.* 263.

Without breaking the house.

To set foot over the threshold with a felonious intent. *Dal.* 224. *Cro.* 32. a.

To come down by a chimney. *ibid.*

To come in by help of a key. *ibid.* *Cro.* 31. a. *Lam.* 263.

To enter the doores being open, and the owner flying to his chamber, to shove at the chamber-doore. *Dal.* *ibid.* *Cro.* 32. b. *Lam.* 263.

If pretending to be robbed, by help of the Constable for search they rob the owner. *ibid.* *Lam.* 264.

If upon conspiracie with a servant, the servant openeth the doore, and the thief entreth. *Dal.* 224.

One entring, and the rest standing about the house, or not farre off. *ibid.* *Lam.* 265.

What place makes Burglarie.

Publick, as Church-walls, or gates of a citie or town walled: Private, as a dwelling house if any be within. *Dal.* 224. *Cro.* 33. a. *Lam.* 260, 261.

The familie for part of the night is abroad, and in the interim the house is robbed. *Dal.* 224. *Cro.* 33. a.

A man hath two dwelling-houses, and dwelleth sometimes at the one, sometimes at the other, and hath servants at both, and the servants are abroad,

in

in the night the house is broken. *ibid.*

To break a chamber in a Colledge or Inne of court, though no bodie is in the chamber. *Dal. 225. Cro. 33. a. Lam. 262.*

Breaking a barn or stable neare to a dwelling house, to the intent to steal. *Dal. ibid. Cro. 32. Lam. 262.*

Robbing a back house. *Dal. ibid.*

To enter to ravish a woman. *Quære Dal. 225.*

The hoste of an Inne breaking into his guests chamber to rob him. *Dal. 253. edit. 1626.*

What not.

Entring onely with intent to beat. *Dal. 225. Lam. 264, 265.*

Breaking and departing without entring. *Lam. 262.* but it is felonie. *ibid. Lam. 261.* it is not burglarye in one under 14 yeares of age. *Dal. 226.*

Nor in poore persons that upon hunger break and steal under the value of 12 pence. *Dal. ibid.*

Nor in naturall fools, or *non compos mentis. ibid.*

Burning.

Malicious burning of houses, being dwelling-houses, or barn with corn, is felonie. *Dal. 238. Lam. 267, 403. Lam. 266, 424.*

Burning of an emptie barn in the night feloniously, if it be nigh a dwelling house. *Dal. ibid. Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felonie. *Lam. 266, 267.*

Burning of a stack of corn feloniously. *Dal. 238*

Butchers.

Butchers, *vide* Viſtuallers.

Butcher gashing a hide whereby it is hurt, loseth 20 pence. 1. *Jac. 22. Lam. 462.*

Butchers

Butchers watering any hides, except in June, July, or August, lose 3 shill. 4 pence an hide. *ibid.*

Butcher or any other killing calves to sell under 3 weeks old, loseth 6 shill. 8 pence a calf. *ibid.*

Or killing any weanling bullock, steer, or heifer, under the age of two yeares. *Lam. 453. 24. Hen. 8. 9.*

Butter and Cheese, *vide* Victuals of transportation.

Buts.

Inhabitants of a town, not continuing their Buts as they ought, are to lose for every 3 moneths 20 shill. 33. *Hen. 8. cap. 9.*

Buying and selling, *vide* Cartell.

Calves and Kine.

ANy killing calves to sell under five weeks old, lose for every one 6 shillings 8 pence, 5. *Elif. 24. 1. Jac. 22.*

Any feeding in his own ground fit for milch kine, wherein none hath common above 120 sheep more then for his own provision, must raise one calf for every 60 sheep or lose 20 shillings a moneth for each calf, and keep one milch cow for every 10 oxen, runts, &c. so fed, if he feed above 20. And for every two milch kine must reare one calf yearly, except it die upon the like pain. 2. & 3. *P. & M. 3. Elif. 25. Lam. 429. Lam. 453.*

Offences against this statute are determinable at the quarter Sessions.

Captains.

Any Muster-masters taking reward for discharging any from service, lose 10 times so much or 20 pound. 2. *E. 6. cap. 2. Lam. 482, 483.*

Captains or others having the charge of men for warre, keeping back part of their pay, lose to their souldier treble so much as is not paid: or for gain licencing any to depart, lose 10 times the gain. 2. *E. 6. Ibid.*

Vide plus Travelling.

Caps, stat. repealed, 39 *Stat. 18.*

Castle, *vide Felonie.*

Cattell.

Buyer of live oxen, runts, steers, kine, calves, sheep, lambes, kids and goats, if he sell them within five weeks after, loseth the double. 5. *E. 6. cap. 14. Lam. 452.*

Certificate.

Recognizance and release of the Peace both are to be certified at the next quarter Sessions. 3. *H. 7. 1.* but no pain by the statute to the Justice if he do not. *Cro. 139. a. Dal. 144. Lam. 111.*

One that is bound to the Peace maketh default at the day of his appearance, the recognizance default of his appearance must be certified into the Exchequer, Kings bench, or Chancery: So if it be presented that he hath broken the Peace. 3. *H. 7. 1. Lam. 555. Lam. 589.*

Sheriffe must certifie to the Justice of the next Sessions, indictment lawfully found and taken at his turn or law-day. 1. *E. 4. 2.*

Clerk of the Crown must certifie the name of

any that have been outlawed of felonie, or Clerks convicted or attainted upon the letter of a Justice of Peace, or lose 40 shillings. 34. H. 8. cap. 14.

Transcript of every attainder, outlawrie, or conviction had before the Justice of Peace, must be certified into the Kings bench by the Clerk of the Peace within 40 dayes after the attainder, if it be in Term; if not, within 20 dayes after the beginning of the next Term, on pain of 40 shillings. 34. H. 8. cap. 14. Clerk of the Peace must certify to the Ordinarie a transcript of the Clerks conviction, or attainder. 34. H. 8. 14. *Quere*, because the 18. *Elis.* they be not delivered to the Ordinarie. *Lam.* 554. *Lam.* 558.

Custos Rotulorum of the Countie where one is attainted as principall of felonie, upon writing of the Iustices of the Goal-deliverie or Oyer and Terminer of another Countie where one is accessarie unto the other, must certify what is done with the principall. 1. E. 6. 24. *Lam.* 588, 589. *Lam.* 554.

Where the Iustices are to receive indictments and no power to proceed upon them, they must certify them into the Kings bench without *coram tiorari*. *Lam.* 589.

Abjuration of a seditious sectarie made in open quarter Sessions, must be certified at the next Assizes unto the Justice of Assize. 35. *Elis.* 1. *Lam.* 590.

Presentments that goods and chattels of one attainted of felonie be in others hands, it is to be certified in the Kings bench, or Exchequer. *Lam.* 590.

Recognizance of an Alehouse-keeper must be certified at the next quarter Sessions after the taking

king, or the Justice lose 4 marks. 3. H. 6. 29.

Certificates of docketers, of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings bench, *vide* Clerks of the Peace.

Certificate of Ryots, *vide* Ryots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.

Vide plus Recognizance.

One bound to the Peace maketh default of appearance at the next quarter Sessions, the Recognizance with the Record of the default must be certified into the Chancery, Kings bench, or Bachelors quarter. 3. H. 7. 1. Lam. 589.

Certiorari.

Certiorari is to remove indictments or other Records to be fully heard where the Justices cannot proceed, or be reversed where they have proceeded erroneously. Lam. 591. Lam. 556.

A Certiorari issueth out of the Chancery, and the Records are removed thither and sent thither by Mittimus to any other court. Lam. 591. Lam. 556.

Certiorari to remove matters of the Crown, need not contain the cause of the removing.

Certiorari out of the Chancery hath in Cancellaria out of the Kings bench *nobis mita*. Dal. 368. Cro. 13. 2. a.

Certiorari may command either the Return it self or the removal of the Record. Dal. 368. Cro. 13. b. Lam. 515.

Certiorari is to be directed to the Justice. Lam. 591.

Iustice of Peace ought upon Certiorari to remove the Record, though the partie that brought the Certiorari sueth not after to have it not removed. *Dal. 368. Cro. 132. b. & 133. Lam. 516.*

An indictment may be removed upon a Certiorari bearing date before the indictment was taken. *Dal. 369. Cro. 132. b. 164, 167. b. Lam. 510.*

A certificate of a Certiorari ought not to omit that which did authorize the Iustice to make the Record, neither ought they to certifie more then the Certiorari warranteth them. *Lam. 516.*

If the Certiorari varie from the Record, the Iustice need not to certifie. *Dal. 368. Cro. 132. b.*

A Certiorari is to send up the indictment of in which others are joyntly indicted, the Iustice need not make certificate of any but of **A** onely. *Dal. 368. Cro. 132. a. Lam. 517.*

A Iustice may without Certiorari send into the Kings bench a Recognizance of the Peace, an indictment found before him, or a force recorded before him. *Dal. 368. Cro. 132. b. 133. b.* but not without Certiorari if he be put out. *ibid.*

No bills of indictment, riot, forcible entrie, assault, or batterie found at the quarter Sessions shall be removed by Certiorari, unlesse it be delivered in open quarter Sessions, and the indicted bound in 10 pound to the prosecutour with such sureties as the Justice shall allow, to pay within one moneth such costs and damages as the said Justices shall allow, otherwise the Justice to proceed to tryall. 21. *Jar. 8. Dal. 214. Edit. 1626.*

Vide plus Certificate.

Challenge:

One indicted of felonie may challenge as many as he will, shewing cause: but without cause he may not challenge above twentie. 22. H. 8. 14. Lam. 523. Lam. 554.

What shall be a good challenge for a Juror.

That he was an indictour of him. Lam. 522. Lam. 554.

That he hath not lands to cleare yearly value of 40 shill. Lam. *ibid.*

In cities and boroughs that he hath no goods moveables worth 40 pound. Lam. *ibid.*

That he is not *Probus & Legalis*, as if he be attainted of felonie, forgerie, perjurie, &c. Lam. 522. Lam. 554.

Champertie.

Champertie is when one for hope of having part of the thing in variance, moveth or causeth the suit to be moved at his own cost, and for it he is to be fined. 33. E. 1. Lam. 441.

Chancemedlie, *vide* Homicide.

Chastisement, *vide* Correction.

Church and Churchyard.

Maliciously to strike with a weapon in the Churchyard, or to draw a weapon to that end, is losse of one of his eares, or to be marked with the letter T. 5. Ed. 6. 4. Lam. 399. Lam. 419.

To keep fair or market in the Churchyard. *ibid.* Stat. Wint. 13. Ed. 1. Lam. 419.

Conviction of any upon the statute 5. Ed. 6. 4. may be by the Iustices of Peace at their quarter Sessions

sions by verdict, testimonie of two, or by confession. 3. Ed. 6. 4.

Execution of the forfeiture upon the statute of striking in Churchyards to be awarded by the Justice of Peace before the conviction. 5. Ed. 6. 4.

Churchwardens.

Churchwardens and Constables or one of them, or where none be, the Constable of the hundred must once every yeare present at the quarter Sessions the monthly absence from church of Popish recusants and the names of every of their children of 9 yeares old and above abiding with their parents, and as neare as they can the age of their children and the names of such recusants servants. 3. Jac. 4. Lam. 437. penaltie 20 shillings. Vide Recusants.

Churchwardens are to gather for the prisoners, vide Prisoners.

Churchwardens and Overseers of the poore are yearly to make account to two Justices whereof one ought to be of the Quorum. viz.

- 1 Of all summes received by them rated or not received.
 - 2 Of such stock as they or any of their poore have in their hands.
 - 3 What apprentices they have put out.
 - 4 What poore they have set to work or relieved.
 - 5 What poore they have suffered to wander and begge.
 - 6 If they have monthly met to take order for the poore.
 - 7 If they have assessed the inhabitants and
- occu-

occupiers of lands, and in their parish, and such as are of abilitie with indifferencie.

8 If they have endeavoured to levie and gather such assessments. *Dal. 72, 73.* Defaults in any the premisses is 20 shill. *ibid.*

Churchwardens and Overseers refusing to make a true account to the Justice of all such summes of money, or denying to pay the arrerages, to be committed to the goal without bail till account made & the arrerages paid to the new Overseers. *Dal. 73*

Churchwardens and Constables yearly upon Tuesday or Wednesday in Easter week, must call together the parishioners,

And first choose surveyours for the high-ways. *Dal. 51.*

2 Appoint six dayes for that purpose, to be before Midsummer next following. *ibid.*

3 Give notice of the said six dayes openly in the Church the Sunday after Easter. *ibid.*

Clerk of the Peace.

Clerk of the Peace must be present at the Sessions, to reade enditements and intoll the acts of the Sessions, as also to draw process. *Lam. 337. Lam. 393.*

Clerk of the Peace must record proclamations for the rates of servants wages, and intoll the discharge of apprentices. *5. Elis. 4. ibid.*

He must keep the counterpain of the Indenture of amour. *4. & 5. Ph. & Mar. 2.*

And the books of licenses given to Badgers and loaders of corn. *5. Elis. 12. Lam. 393.*

And of those that are licensed to shoot in gunnes. *2. Ed. 6. 12.*

He must certifie into the Kings bench transcript of enditements, outlawries, assaunders, and convictions had before the Justice of Peace within the time limited. 34. Hen. 8. 14. Lam. 588, & 593.

Recognizance of the Peace is brought into the *Custos Rotularum*, and the partie grieved will not sue it, the Clerk of the Peace may call upon it for the King. Lam. 394.

The office of the Clerk of the Peace is in the gift of the *Custos Rotularum*. 37. H. 8. 1. Lam. 394.

What Records the Clerk of the Peace is bound to certifie, *vide* Certificate.

The Clerk of the Peace his fees, *vide* Fees.

He must record presentments for not coming to Church, and the certificate of not taking the oath of Alleagiance. 3. Jac. 4. Lam. 393.

Clerk of a Justice his fees, *vide* Fees.

Clerk of the Crown, what records he ought to certifie, *vide* Certificate.

Clerk of the Market.

Clerk of the Market taking money to dispense with faults, riding with more then six horses, tarrying longer then is necessarie, loseth for the first offence 40 shill. for the second 10 pound, for the third 20 pound. 13. R. 2. 4.

Clergie and Sanctuarie.

One Justice of Peace may take out of the Sanctuarie him that is abjured thither, being endited of any offence punishable by death, done after he is become a Sanctuarie man, and may commit him to the goal in the countie where the enditement is found, till he be tried. 22. Hen. 8. 14.

Breaking

Clergie and Sanctuarie. 41

Breaking a house by day, and taking away any thing to the value of 5 shill. 29. *Elif.* 15. *Lam.*

Conjurers or witches, their aiders and counsellors. 5. *Elif.* 16. *Lam.* 531, 564.

In what offences Clergie is not allowable.

Receivers or aiders of Seminarie Priests or Jesuites. 27. *Elif.* 17. *Lam.* 563.

Conspiring to burn, take, or rase any castle or bulwark of the Kings. 14. *Elif.* 1.

Rape or ravishment, } 18. *Elif.* 6. *Lam.* 564.

Burglarie

Carnally abusing a woman within the age of ten yeares. 18. *Elif.* 6. *Lam.* 564.

Principall or accessarie before the fact of taking away of a maid, widow, or wife, that hath lands or substance, &c. 3. *Hen.* 7. 2. and 29. *Elif.* 9. *Lam.* *ibid.*

Buggerie. 5. *Elif.* 17.

Murderer.

Poysoner of malice prepensed.

Robbing in day, or nigh a high-way.

Horse-stealer.

Church-robber.

Robbing of a house, any being in it. (365

Robbing of booth or rent, any being in it. *Lam.*

Commander of Pettie-treason.

Commander of wilfull murder.

Of robbery in any dwelling house, in or neare any high-way.

Stabbing one who hath no weapon drawn, nor stroke first, if he die thereof within six moneths. 1 *Jac.* 8. *Lam.* 565.

To burn any barn having any corn in it. *Lam.* 565

Reporting false rumours against the King, devi-

devising or writing seditious or slanderous matter against the King. 23. *Elif.* 1.

Souldiers departing without license of their captain. *Lam.* 565.

Souldiers or Mariners which wander begging. 39. *Elif.* 17.

Exceed the time of their license. *ibid.*

Forge, or use forged license, knowing it. *ibid.*

The second conviction for forging false deeds. 5. *Elif.* 14.

Privily to take away goods or money above 12 pence from the person of another. 18. *Elif.* 4.

Calling himself an Egyptian, or keeping them companie contrarie to the statutes. 1. & 2. *Ph.* & *Mar.* 4. 5. *Elif.* 20. *Lam.* 556.

A confined recusant refuseth to abjure the realm, or will not go, or returneth without license. 35. *Elif.* 1. 2.

To what persons Clergie is grantable.

To a bastard.

To bigames.

To whom not grantable.

Women, *vide* Women.

One that hath had it formerly, except he be within holy orders. 1. *E. 6.* 12. *Lam.* 530, 563.

In what cases Clergie is allowable.

Clergie shall be allowed in all cases, saving such as are mentioned 1. *Ed.* 6. 11. or speciall since that time taken away.

Clergie shall be allowed but once. 4. *H. 7.* 13.

A woman convicted of felonie above 12 pence, and under 10 shall, wherein a man may have his clergie,

clergie, shall be burnt in the hand with T and whipped. 21. Jac. 6.

Upon an attainder by outlawrie, Parliament standing mute, challenging peremptorily above 20 shill. where the statute taketh it away upon conviction by verdict. *Quere* Lam. 535. Lam. 567.

A Justice of Peace may give clergie to a felon, if the Ordinarie be present; but they cannot fine the Ordinarie for his offence, but must reprieve the prisoner. Lam. 520, 551.

If the Enditement doth not directly agree with the words of the statute that taketh away clergie, the prisoner may have his clergie. Lam. 534. Lam. 566.

After conviction and clergie allowed, and the partie burnt in the hand, he may be indicted of another felonie. Lam. 527. Lam. 559.

When any man hath priviledge of clergie, as a clerk convicted, and also in all cases of felonie wherein the benefit of clergie is restrained, excepted, or taken away by statute (wilfull murder and poisoning of malice prepensed, excepted) any Lord of the Parliament, or Peer of the Realm sitting in Parliament, shall upon his request and prayer, alleging that he is a Lord or Peer of the realm, though he cannot reade, without burning in the hand, losse of inheritance, or corruption of blood, be adjudged for the first time onely as a clerk convicted, 1. Ed. 6. 12. But in all other cases wherein clergie is taken away by any statute since 1. Ed. 6. he is in the same degree as a common person. P. R. 2. 13.

Cloth.

Every Iustice beyond Trent hath some power in searching out the deceit of straining or stretching those countrey clothes. 39. *Elis.* 20.

Any Iustice of Peace next unto any Town corporate or Citie beyond Trent, is to joyn with the Citie or Town in appointing overseers for cloth, *ibid.*

Two Iustices of Peace must appoint yearly overseers of cloth sold in Towns corporate, and to swear them to see execution of that part of the statute which is yet in force. 3. *E.* 6. 2. *Lamb.* 348. *Lamb.* 359.

One commanded by two Iustices of the Peace, to appeare to be made an overseer of keeping the statute of clothing, and without reasonable excuse refusing, shall forfeit 40 shill. one half to the two Iustices. *ibid.* *Lamb.* 335.

Two Iustices of Peace may dispose the money rising of deceitfull cloth stretched. 39. *Elis.* 20.

Woollen cloth presented by a retayler thereof, to two of the next Iustices of Peace, as defective against this statute and the statute 4 & 5 *Phil. & Marie* 5. shall cause the same to be cut into three equall parts, whereof one part to the King, one part to the presenter, and the third part to the Iustices themselves. 5. *E.* 6. 6. *Lamb.* 348. *Lamb.* 359.

Iustices of Peace faulty in executing the statute against the deceitfull stretching of Northern cloth, lose 5 pound. 39. *Elis.* 20.

Clothier must set his seal of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3. *Ed.* 6. 2. *Lamb.* 442. *Lamb.* 469.

Cloth is not to be stretched above a yard and a half in length, and half a quarter in breadth, not

to shrink more in wetting, on pain of 40 shill. *ibid.*

Browns, Blewes, Pewks, Tawnies and Violets, must be perfectly boyled, grayned, or maddered upon the woad, and shot with good cork or orchall, otherwise the dyer loseth 20 shill. for every offence. 3. E. 6. 2. *Lamb.* 442. *Lamb.* 469.

Wooll for Russers, Marbles, Grayes, Bayes, or for hats or caps, must be perfectly woaded, boyled, and maddered, or lose 20 shill. every Cloth or Wool for a cloth. *ibid.*

Dying with Brazill, thereby to make a false colour, is losse of 20 shill. a time. 3. E. 6. 2. *L.* 443, 469.

Putting Flax, Chalk, Starch, or other deceiveable things upon any cloth, except Devonshire and Cornwall straits, loseth 40 shill. a time.

Selling Cloth by lesse measure then after the true contents by the yard and inch, loseth 6 shill. 8 pence a yard. *ibid.*

Putting to sale Cloth pressed to be used in England, Wales, or Ireland, loseth the Cloth or value. *ibid.*

Refusing to be searchers of Cloth, or neglecting to search once a quarter, loseth as the offenders. *ib.*

Interrupting the search of Cloth, is losse of 20 pound. *ibid.*

Kentish Cloth above 6 pound price must contain betwixt 28 and 30 yards in length being wet, and 7 quarters broad within the lists, and being well dressed, must weigh 76 pound, or lose 20 shill. for want of length and breadth, and so much for wanting of 4 pound of the weight. 5. E. 6. *Lamb.* 443. *Lamb.* 470.

Deceit in linnen Cloth, whereby it is become worse for good use, is losse of Cloth, fine, & imprisonment

46 Commission of the Peace.

sonment for a moneth. 1. Eliz. 13. Lamb. 444.
Lamb. 471.

Offences against the statute, concerning the stretching of Northern clothes, to be presented by the overseers at the next Q. Sessions after the offence, and there to be heard and determined. 39. Eliz. 20.

Offences of the Justices of peace in neglecting their duty, by not executing of the statute of deceitfull stretching of Northern clothes, to be heard and determined by I. of Assize.

Commission of the Peace.

The commission of the peace is determinable at the Pr. pleasure, either by expresse word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriffe. Lamb. 63, 68. Lamb. 66, 67.

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourn the same. Lamb. 67. Lamb. 71.

A new commission of the Peace *hac vice tantum*, will determine the old. Lamb. 64, 70. Lamb. 68.

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication. Lamb. 64, 69. Dal. 8. Crom. 189. a. Lamb. 67.

A proper Justice is made within a speciall libertie, without words of prohibition, the Justice of the shire may meddle there. Lamb. 64, 69. Lamb. 68.

The making of a new commission is no determination of the old, till it be read or proclaimed at

at some Session or in a full county, *Lamb. 65, 70.*
or at the Assizes, *Dal. 8. Lamb. 69.*

The old commission determining by a new, no
processe or suit hanging before the old commissio-
ners, is discontinued thereby. *Lamb. 66, 71. Dal. 9.*
Cro. 189. Lamb. 69.

Accession of a higher title taketh not away the
authoritie of a Iustice of Peace. *Lamb. 66. Dal. 9.*
Cro. 188. a. Lamb. 70.

A new commission to heare and determine fel-
lonies, determineth the old commission of the
Peace, but not concerning the Peace. *Lamb. 72.*

A Iustice of Peace, in making justification by
vertue of his office, needeth not to shew the com-
mission of the Peace, because the keeping thereof
belongeth to the *Custas Rotularum*. *Lamb. 387,*
388.

Commons.

Commons in forrests and elsewhere, must be
driven yearly within 15 dayes after Michaelmas
by the owner or officers, on pain of 40 shil. a time,
22. H. 8. 13. Lamb. 466.

Vide plus Horses.

Common Prayer.

If any Minister have refused to use the Common
Prayer, or to minister the Sacraments according
to the Book of Common Prayer, or wilfully
standing in the same have used any other form in
open prayer or in administration of the Sacra-
ments, or spoken any thing in derogation of the
said book or any part thereof, for the first offence
it is

it is losse of the spirituall living for a yeare; and imprisonment for 6 moneths without bayl: for the second, deprivation and imprisonment for a yeare: for the third, deprivation and imprisonment all his life. 1. *El. cap. 2. 23. El. Lamb. 348, 402. L. 417.*

Any having in play, song, or rhythme, or by any open word spoken in derogation of the book of Common Prayer, or any thing therein contained, or having caused or maintained any Minister to say any other Common Prayer, or minister Sacraments in other manner, or interrupting any Minister to say open prayer, or administer the Sacraments according to the said book, he loseth 100 marks or 6 moneths imprisonment without bayl for the first offence; and for the second, 400 marks or 12 moneths imprisonment; and for the third, all his goods & imprisonment for his life. *ib.*

Concealment, *vide* Iurours.

Confession.

After a free confession of an indictment, and submission to finde in an action at the parties suit, for the same trespasse, he shall not plead not guilty: otherwise of a confession *sub modo*, as when he putteth himself *sub gratia Regis. Lamb. 500, 501, 511, 512. Lamb. 530.*

Quære whether if he once make a fine, he shall not be estopped to plead not guilty also.

Whether the Just. of Peace may drive the partie either to an absolute confession or to his traverse. *ib.*

The voluntarie confession of an offender against the statute, 1. *Jac. 9. 4. Jac. 5.* before a Justice of Peace is a conviction, and after confession his oath is sufficient proof against any other offending at the same time, 21. *Jac. 7. Dal. 26. Edit. 1626.*

Conju-

Conjurat[i]on of wicked spirits is felonie. *5. H. 8.*
16. 23 1, 399. *Lam.* 227. *Vide plus Witchcraft.*

Conservers of the Peace.

Coroners are conservers of the Peace, and may
in some cases imprison. *Lam.* 378, 381. *Lam.*
131, 395.

Constables.

Every Constable at the Common law before the
statute 3. *Hen.* 7. 3. and 1. and 2. *Phil. & Mar.*
might bail one suspected of felonie by obligation;
or take suretie of the Peace by obligation, or com-
mit him to prison that made an affray, till he found
sureties. *Lam.* 15.

Constables or other officers may lay no hands
on two intending to fight, till weapons drawn, or
offer of blow. *Lam.* 132.

Constable hurt in parting an affray, may have
an action against the affrayer; so may any other of-
ficer: but the affrayer can have none against them.
Lam. Const. 15. *Lam.* 125, 135. *Lam.* 132, 133.

Constable or officer presented at the Sessions
for not endeavouring to part an affray, being pre-
sent, shall deeply be fined. *Lam.* 121, 136.

So if he be told of it being absent. *Dal.* 32. &
contra, *Cro.* 146. b.

Two fighting in an house the doores being shut,
the officers may break open the doores to see the
peace kept. *Lam. ibid.* *Lam.* 133.

Constable taking an affrayer must imprison him
in the stocks, not in his house; and that till he may
provide to carrie him to the goal, *Lam. ibid.* or to

a Justice of Peace. *Dal.* 28, and 30. *Lam.* 133, 125.

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 126, 137. *Lam.* 134.

Constable or officer may defend himself, and apprehend and imprison the partie that shall make an affray upon him. *Lam. ibid.* *Dal.* 30. *Crom.* 147. a

One Justice of Peace may command, that two constables be chosen in each hundred. *Lam.* 175, 190. *Lam.* 186.

Vide plus Affray, Arrest, Rogues.

High-constables, at their pettie Sessions, for an affray made in disturbance of the Court, may imprison the offenders. *Dal.* 3. edit. 1626. *Cook* 11. 43, 44.

Choosing of High-constables useth to be at the Qu. Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell, and use to be sworn at the Sessions, or by warrant from the Sessions. *Dal.* 44. edit. 1626.

Conventicles.

Those are sometimes called conventicles wherein many do impart with others their meaning to kill a man, or to take anothers part in all things. *Lam.* 163, 173, 177.

Champerlie also, maintenance, conspiracies, confederacies, and giving of liveries other then to meniall servants and officers, be contained under the word conventicles. *Lam. ibid.*

Conies, *vide* Hunting.

Corn.

Certificate of one Justice of Peace joyned with
the

the customer of the place of unlading and selling of corn, grain, or cattell carried by water from one place to another of this Realm; unto the customer and controller of the place where the same was imbarked, is sufficient upon the statute of forestalling. *5.Ed.6.14.13.Elif.25.*

One having sufficient corn, buying seed, without bringing so much as he buyeth, to sell the same day as the market goeth; loseth double. *5.Fac.46.427,433.Lam.450.*

Vide plus Transportation.

Cutter and carryers away of corn, *vide Hedge-breakers.*

Coroners.

Coroners ought to certifie their inquisitions at the generall goal-delivery; and not at the Sessions. *1. and 2. Ph. & Mar. 12. Lam. 378, 380, & 395.*

Coroners being parties to the exigents, and Judges of the outlawrie, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners may be convicted of offence against the statute of *1.Hen.8.7.Lam.413,517.Lam.434.* touching extortion, or not executing their offices before a Justice of Peace. *Cro.130.*

Coroners fees; *vide Fees.*

Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unlesse he lay foure acres of his own free-hold inheritance lying neare to the said cottage, to be con-

tinually manured therewithall so long as that cottage shall be inhabited, except in a citie, corporate or market town, or ancient borough, or being the dwelling house of minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coal, not being above a mile from the works, and onely used for the habitation of such workmen, or for saylers, or men of manuell occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chase, warren, or park; or cottage for a common herdsman or shepherd of any town, or wherein any poore, lame, sick, aged, or impotent person shall dwell; or hath been decreed to continue for a dwelling by the Justices of Assize or of the Peace in open Assizes or Qu. Sessions, 31. *Elif.* 7. 39. *Elif.* 3. 43. *Elif.* 2. *Lam.* 499, 456. *Lam.* 476.

None to maintain or uphold any cottage, not having foure acres to it, except as before. *ibid.*

Owner or occupier of a cottage must not suffer more households then one to dwell in a cottage. 31. *Elif.* 7. except it be by order of the Justice at the Q. Sessions, with leave of the Lord of the waste at the charge of the parish, hundred, or countie. 39. *Elif.* 3. 43. *Elif.* 2. *Lam.* 573, 589, 611. Offences against the statute of cottages and inmates, are to be heard and determined at the Q. Sessions. 31. *El.* 7. *Lam.* 575, 589, 614, and a decree may be made at the Q. Sessions for continuance of a cottage that hath not foure acres of land. *ibid.*

Countie.

A Justice of Peace in Countie, pursuing a felon

Cozeners, &c. Crossebows. 53

felon into another Countie where he is taken, he shall be committed to the goal of the Countie where he was taken.

Cozeners and Cozenage.

Any falsly and deceitfully getting in possession money or goods of other mens in colour of false privy tokens, or counterfeite letters, and convicted thereof at Q. Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33. Hen. 8. 1. Lam. 420, 426, 505, 516, 536, 550, 572, 588. Cro. 83. a. 130. b.

Two Justices of Peace, one being of the Quorum, may binde over to the next Sessions any such suspected person, or may imprison or bail them, untill the next generall Sessions. Dal. 37. One Justice of Peace (as it seemeth) may binde threatners to their good behaviour, so to the Assizes or Sessions, or send them to the house of correction. Dal. 48. Edit. 1626.

Crosses, *vide Agnus Dei.*

Crossebows and hand-guns.

Every person may attach an offender against the Statute 33. Hen. 8. 6. and carrie him to the next Justice of Peace in the same countie. Dal. 49.

The Justice upon due consideration may send the offender to the goal, till he have paid the penaltie of the statute of 33. Hen. 8. 6.

The particulars of the said Statute.

None under an 100 pounds per annum may shoot in, or keep gun, dag, pistol, crossebow, or stonebow,

54 Crossebows and Hand-guns?

No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100 pound *per annum* may seize the gun, and must break it, or lose 40 shill. if he break it not within twentie dayes, *Lam.* 454, 462. but may keep the crossebow or stonebow. *Dal.* 49.

No person not having an 100 pound *per annum*, may carrie in his journey any gun charged, or bow bent, but onely in time and service of warre, or going to the musters.

None may shoot in a gun near to a market town, but in defence of his house or person, or at a but.

The master may not command the servant to shoot, except at a but or bank of earth, or in warre.

Exceptions out of the Statute.

1 Shooting at a but or bank of earth by servingmen, whose masters are inabled by statute.

2 Inhabitants of market towns.

3 Dwellers alone, or neare the sea-side.

4 Gunmakers or gunsellers.

5 Those that have placards may shoot according to their placards. *Dal.* 49, 50.

Any under the value of 100 pound *per annum* licensed to shoot in crossebow or hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Qu. Sessions, or else the Justice to lose 20 shillings, 2, *Ed.* 6. 14. *Lam.* 296, 299. Quære if this be now in use. *Lam.* 330.

Any licensed at Q. Sessions to shoot in hand-gun or birding-piece for hawks meat, is to shoot onely at fowl not prohibited, and to be bound in 20 pound. 1. *Fac.* 27.

Any

Any two Iustices of Peace may commit to the goal for 3 moneths any that shoot with gunne on bow at any Partridge, Pheasant, house Dove, Mallard, or at such fowl, or at any Hare. 1. *fac.* 27.

Currier, *vide* Leather.

Customer, *vide* Corn.

Custos Rotulorum.

Custos Rotulorum hath the custodie of the Records and of the Commission, and ought to see that they be brought to the Sessions. *Lam.* 371, 373. *Lam.* 387.

Custos Rotulorum is alwayes a Iustice of Quorum. *Lam.* 371, 372.

Custos Rotulorum alone cannot summon a Sessions, seeing that he hath no more authoritie in that behalf then any of his fellowys hath. *Lam.* 367. *Lam.* 382.

Cutpurse.

Taking of the goods of another to the value of 12 pence from his person into his own possession without assault or fear, is felonie without Clergie. 18. *Elis.* 4. *Lam.* 267, 271, 401, 405, 534, 547. *Lam.* 270. *Dal.* 229.

But it will not amount to felonie unto death, unlesse the thing taken be of the value of 12 pence. *Lam.* 270. *Dal.* quere.

The thief must have an actuall possession of the thing severed from the person of the owner. *Lam.* 271. *Dal.* 229. *Gro.* 35. 2.

Cutting out of tongues.

Cutting out of tongues and putting out of eyes

56 Cutting of a pond head.

is felonie, if it be done of set purpose. *5. H. 4. 5. Lam. 400, 404. Lam. 420.*

Cutting of a pond head.

Destroying of the head or damme of any pond, moat, sluice, or severall pit wherein fishes are put by the owner thereof, or have wrongfully fished in any of the same, to the intent to take away the fish against the owners will. *5. E. 2. 1. Lam. 424. Lam. 446.*

Deere and Deere-hayes.

Justice of Peace may not receive an indictment for killing a hart proclaimed, *Lam. 477, 487.* for the jurisdiction of it belongeth to the Justice of the forrest. *21. H. 7. 30. Lam. 505.*

One convicted of unlawfull taking or killing of Deere must pay treble damages to the partie, three moneths imprisonment, and after to remain there till he put in sureties for the good behaviour for 7 yeares. *5. Elis. 21. Lam. 538, 552. 3. Jac. 13. Lam. 571.*

To sell or buy to sell any Deere, Hare, Partridge, or Pheasant, except house Partridge or Pheasant, or brought from beyond the seas, loseth for every Deere 40 shill. every Hare or Partridge 10 shill. and every Pheasant 20. shill. *1. Jac. 27.*

Vide plus Hunting and Buckstalls.

Demurrer.

One indicted demurreth upon the evidences, the Justices ought to record it. *Lam. 508, 520. Lam. 539.*

Deputie.

A Iudge cannot make a Deputie: *Lamb. 60, 63.*
Lamb. 64.

Divine Service.

Any above the age of 16 yeares that repaireth not to his parish Church or Chappel accustomed; or to some usuall place where Common Prayer is to be used upon every Sunday and other holidayes, and hath not there orderly and soberly abiden during the time of such Common Prayer, Preaching, or other service of God; loseth 12 pence for every offence, to be levied by the Churchwardens to the use of the poore of the said parish, and to be punished by the censures of the Church: 1. *el. 2.*

It is lawfull for one Iustice of Peace in the li-mit, division, or liberie where the offender dwel-leth, in not coming to Church; 1. *el. 2.* upon proof of default, by confession of the partie or oath of wit-nesse, to call the partie before him; and for want of sufficient excuse and proof thereof to the satisfacti-on of the said Iustice, the said Iustice may give his warrant to the Churchwarden of the said parish un-der his hand and seal to levie 12 pence for every de-fault by distresse, in default thereof to commit the offender to prison till payment made. 3. *Jac. 4.*

Vide plus Recusants and Sunday.

Dogge, *vide* Hunting.

Vide Partridges and Pheasants.

Drivers of commons, *vide* Commons.

Drovers, *vide* Badgers.

Dyer, *vide* Cloth.

Drunkennesse.

Any Iustice of Peace, upon his own view, con-fession

session of the partie, or proof of one witnesse upon oath, hath power to convince any person of drunkennesse. 21. *Jac. 7.*

Any within six months after the offence committed, lawfully convicted of drunkennesse, loseth 5 shill. to be paid after conviction to the Churchwardens of the parish where the offence shall be committed; and refusing and neglecting to pay the same, to be by warrant from the Justice convicting levied on his goods; if he be unable, to be set into the stocks 6. houres, and upon conviction of the second offence to be bound with sureties in 10 pound to his good behaviour. 4. 5. *ibid.*

The officer charged is negligent in levying or in correcting, he loseth 10 shillings to be levied and disposed as the penaltie it self. 4. *Jac. 7.*

Churchwardens to be accountable to the use of the poore for the penalties by them received upon the statute of drunkennesse, *ibid.*

Constables, Churchwardens, and Tithingmen, in their oaths for their office are to swear to present offences against the statute of drunkennesse. 4. *J. 5.*

Offences against the statute of drunkennesse to be inquired after and presented before the Justice of Assize or Justice of Peace at their Sessions, and proceeded upon ordinarie indictment. *ibid.*

Offenders against the statute of drunkennesse not to be twice punished for the same offence. *ibid.*

Ecclesiasticall causes and persons.

Ecclesiasticall persons subject to arrest for the Peace, but when they be attendant on divine service. *Lam. 88, 95. Lamb. 93. Dal. 294.*

Vide plus Treason,

Egges

Egges of wilde fowl.

59

Egges of any wilde fowl usually eaten, taken from the place where they were layed, or destroyed betwixt the first of March and the last of June, one yeares imprisonment, and lose after a rate for each egge. 25. *H. 8. 11. 3. E. 6. 3. Lam. 429, 435. Lam. 453.*

To take away the egges of any Hawk out of the woods or ground of any other person, three moneths imprisonment, and bound to his good behaviour for 7 yeares. 5. *Elis. 21. Lam. 424. Lamb. 446.*

To take or cause to be taken upon his own or other mens grounds the egges of any Falcon, Goshawk, Lanner, or Swan, one yeare and a dayes imprisonment and fine. 11. *H. 7. 17. Lam. ibid.*

Taker or willing destroyer of egges of Partridge, Pheasant, or Swan, upon conviction by confession or oath of two witnesses before two Iustices of Peace, where the offence or apprehension is, to be imprisoned three moneths, unlesse he pay to the Churchwardens of the parish in one of the places to the use of the poore 20 shill. 1. *Jac. 27.*

Vide plus Partridges, Pheasants, and Fowlers.

Egyptians.

One Iustice of Peace may within one moneth after the arrivall seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realm, or companie with them, or disguise themselves like them, and keep to his own use the one moytie, accounting in the Exchequer for the other, restoring to them again their goods that prove by two witnesses that they were craftily or feloniously stolln from them, upon pain of forfeiture of double the value to the prover. 22. *H. 3. 10.*

I am.

Lamb. 183, 200, 232, 255, 355, 357, 407, 412.

Dal. 38. *Lamb.* 195, 228, 371, 429.

After the moneth it is felony, and then they shall have the whole. 1. & 2. P. & M. 4. Quære whether the stat. 21. H. 8. be still in force or altered by the statute of 1. & 2. P. & M.

Embezeling of records, *vide* Records.

Embracer, *vide* Maintainer.

Enditements.

Enditement is the verdict of jurors that be charged to inquire of that offence that is presented by them. *ibid.*

All Enditements ought to contain certainty, and therefore five principall things be requisite in presentments. *Lamb.* 459. *Lamb.* 487.

1 The name, surname, and addition of the party endited.

2 The yeare, the day and place in which the offence was done.

3 The name of the person to whom the offence was done.

4 The name and value of the thing in which the offence was committed.

5 The manner of the fact and the nature of the offence, as the manner of the treason, murder, felony, or trespassse. *Lamb.* 460, 461. *Lamb.* 487.

Enditement of the accessary to felony, must contain the name of the principall. 461, 470. *Lamb.* 488.

Misnamer in an Enditement shall not be made good by an *alias dictus*. *Lamb.* 463, 471. *Lamb.* 490.

Where the name of the party offended cannot be

be known, it may be *ex jure ignoti*, because of the K. advantage thereby by forfeiture. *Lamb. 467, 476. Lamb. 494.*

Any certainty whereby the day and yeare may be known is sufficient. *Lamb. 464, 473. Lamb. 491.*

An offence done before midnight must be supposed the day before; if after, then the day after. *Lamb. 465, 473, 492.*

One striketh one day, whereon he languisheth; and dieth on another; the enditement must suppose the last day on which he died. *Lamb. 464, 473. Lamb. 491.*

Enditement supposing the fact done a day not come, is not good. *464, 474. Lamb. 492.*

Enditement or presentment for an omission, as A hath not scoured such a sewer, needs not to set down day nor yeare. *Lamb. 465, 474. Lamb. 492.*

Enditement supposing an offence done at two severall times, not good. *Lamb. 465, 474. L. 492.*

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no such place, the enditement is void. 9. H. 5. 1. 18. H. 6. 12. *Lamb. 465, 475. Lamb. 493.*

If the stroke or poysoning be in one county, and the death in another county, the enditement in the county where the death is shall be good. *Lamb. 466, 475. 2 & 3. Ed. 6. 24. Lamb. 493.*

Certainty of the person to whom the offence is done. *Lamb. 467. Lamb. 494.*

The goods of a Parson of a Church, *bona Rectoris.*

The goods of the Church, *Bona Parochianorum in custodia Guardianorum.*

The

The goods of Maior and commonalty, and the Maior dieth before the enditement, *bona Communitatis*: but enquire of that, because they have no such name of corporation.

Goods taken in a mans life time, and he maketh executour and dieth, *bona Testatoris*.

Goods taken after his death, *Testatoris in custodia executorum*.

Goods hanging over a Tombe, *Executoris*. A Grave-stone, *bona Ecclesie*.

My goods are taken by a trespasser and taken from him again, the enditement shall be *bona* of him that had the last possession. *L. 468, 478. L. 496.*

Of the owner in the keeping of the bayl, where they were taken from the bayl. *L. 469, 478, 496.*

Bona Capella in Custodia, or *bona domus*, or *Ecclesie tempore vacationis*, is good. *Lamb. ibid.*

The name of the thing must be comprised. *L. ib.*

Bona & catalla in trespassse or felony is not good.

If dead things, it may be *bona & catalla*, expressing the names thereof in certainty:

If living things, it shall not say, *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to be declared in felony to make it appeare petty larceny; in trespassse, to aggravate the fault.

Enditement of things *feræ naturæ*, as Deere, Hares, Partridges, or Pheasants, is not good, unless they be taken in a park or a warren that be liberties. *Lamb. 469. Lamb. 497.*

Charters, their value cannot be esteemed. *ibid.*

It must be said, *Pretii*.

Of live things. *Lamb. 460, 479. Lamb. 497.*

Of

Of dead things in the singular number, *ibid.*

Of things that go by weight, and measure, 470,
479. *Lamb.* 497.

Of coyn not currant, *ibid.*

It must be said *ad valentiam* of dead things in the plurall number not going by weight and measure. *Lamb.* 469, 479. *Lamb.* 497.

Coyn counterfeited. 470, 479.

Where the number ought to be expressed, as of the taking of doves in a dove-house, or young hawks in a wood, there it must be *pretii* or *ad valentiam*. *Lamb.* 469, 479. *Lamb.* 497.

Coyn currant carrieth his value with it, *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *Lamb.* 470.

Nature of the offence.

Treason must have *Proditorie*.

Murder *Murdravit*, which implieth *ex malitia præcogitata*. *Lamb.* 473, 483. *Lamb.* 500.

Burglarie, *Burglariter*.

Felony, *felonice*, *ibid.* so petty larceny, *felonice rapuit*. *Lamb.* 473, 483. *Lamb.* 501.

Furatus seemeth good without *felonice*.

In felonie, *cepit* alone, or *abduxit*, or *asportavit*. *Lamb.* 475. *Lamb.* 501.

In trespassse or felony the words *contra pacem* must be used. *Lamb.* 502.

In forcible, *vi & armis*. *ibid.*

Upon a statute, *contra formam statuti hujusmodi casu editi & provis.* *ibid.*

Where many statutes concern one offence, *contra formam diversorum statutorum*.

Where after an acquittall one shall be endited for the same felony.

Where

Where the first enditement was void for insufficiency of matter of felony. *Lamb.* 524, 537. *Lamb.* 556.

Tryall in a wrong county, *ibid.*

Misprision of the party that should bring the action.

Where the first enditement was as principall, the second enditement as accessary to the same felony after the fact. *Lamb.* 505, 538. *Lamb.* 557.

Where he shall not be again endited.

Where the enditement was good.

Though it were by another name, if he be known by both. *Lamb.* 523, 536. *Lamb.* 555.

Though it suppose the same felony done in another year. *Lamb.* 537. *Lamb.* 556.

Though the processe was erroneous, *ibid.*

Enditement taken at the Sheriffs turn lawfully taken, must be taken by the Justice and by them received. 1. E. 4. 2. *Lamb.* 476, 487. *Lamb.* 504.

No enditement can be taken nor enquiry made but before two Justices, one to be of the Quorum. *Lamb.* 49.

Enditement upon penall statute, whereof the King is onely to reap the forfeiture, must be within 2 yeares after the offence.

And where a common person is, it must be within one yeare, except the statute do otherwise direct. *Lamb.* 469. *Lamb.* 487.

Enquire

Justices of Peace may onely enquire and can proceed no further, as in

1 Certain offences against the supremacy. 23. E. 1.

2 Treasons

2 Treasons, and misprisions of treason, made by the 23. *Elis.* 1.

3 Offences against the statute of false rumours against the K. 23. *Elis.* 1.

Enquirie of a forcible entrie, *vide* Forcible entrie.

Enquirie by presentment, *vide* Presentment.

Enquirie by examination, *vide* Examination.

Enquirie by information, *vide* Information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a yeare and a day, the Constable shall make a fine to the value of his goods, but it is no felonie. *Lam.* 126, 134.

To suffer a felon wilfully to escape, is felonie; but a negligent escape onely to be fined. 1. R. 3. 4. *Lam.* 490.

Wilfull escape of one arrested for larcenie, manslaughter *per fortunam*, & *se defendendo*, is not felonie, *Lam.* 226, 234. *Dal.* 241. *Cro.* 39. a. if the act were not felonie at the time of the escape. *Lam.* 230.

Wilfull escape by the goaler or keeper of a felon, is felonie in the goaler, not in the felon: if the escape be caused by a stranger, it is felonie. *Lam.* 226, 229. 233.

Escape suffered by him that receiveth a known felon, is no felonie. *Lam.* 226, 230, 234.

Vide plus Prisoners.

To suffer one to escape that is arrested for an act which was not then felonie, but by matter consequent fell out so to be, is no felonie, *Lam.* 234. but

is

is

is fineable. *Dal. 241. Cro. 39. a. Lam. 230.*

A prisoner under arrest onely escaping, the escape must first be presented before he that suffered the escape shall answer it. *Dal. 242.*

A Justice sendeth for a felon out of the goal, and freeth him without bail; it is felonie in the Justice. *Dal. ibid. Cro. 39. b.*

A Justice *pro defectu scientie* baileth one notailable, it is but a negligent escape. *Dal. 242. Cro. 39. b.*

Offender upon his examination before a Justice confesseth the felonie, who letteth him go without commitment or bail; it is a voluntarie escape, and so felonie in the Justice. *Dal. 260. Cro. 39. a.*

A town not walled must answer the escape of a manslayer in the day time. *Dal. 256. Cro. 40. b.*

The hundred must answer for a man slain out of the town, and for insufficiencie the countie shall be charged. *Dal. ibid.*

Goaler or other officer suffereth his prisoner to go abroad for a time, though the prisoner return as he was prescribed, or let his prisoner go by bail or baston; it is a negligent escape, and fineable: but *Quere*, for prisoners ought to be kept *in salva & certa custodia*. *Dal. 240.*

Voluntarie escape of one arrested or committed for felonie, is felonie in the goaler; if for treason, it is treason; if for trespassse, it is trespassse. *Dal. 241.*

A thief being in the custodie of the Constable, doth suddenly hang, drown, or kill himself; it is a negligent escape. *Dal. 270.*

Escheators.

Escheators.

67

Escheator, other then those of a citie or borough, that takes upon him the office, not having lands in the shire of 20 pounds *per annum*, or for life at least, or that hath sold or set to farm the office to one for whom he will not answer, and whose name he doth not certifie within 20 dayes into the Exchequer, shall be fined 40 pound. 33.H.8.22. Lam.409,414,429.

Escheator taking for execution of any writ in any countie above 40 shill. or 40 shill. where the land is not held *in capite*, shall be fined 40 shill. 23.H.6.17. Lam.410,414,430.

Escheator taking above 15 shill. for finding out an office not exceeding five pounds a yeare, loseth 5 pounds. 33.H.8.22. Lam.410,415,430.

Evesdroppers.

Evesdroppers which shall by night evesdrop mens houses, are to be bound to the good behaviour. Dal. 161.

Evidences.

Justice of Peace must binde over informers for felonie to appeare and give evidence against the felon at the next generall goal-deliverie. Dal.39.

Justice of Peace must binde such as declare any thing materiall to prove the felonie, to appeare at the next goal-deliverie, and give evidence. Dal. 359, 261.

Examination taken by a Justice of Peace in one countie, may be certified into another countie, and there read and given in evidence. Dal.264.

Estreats.

Estreats are the extracts of fines, forfeitures, and

amercie

amercie

amerciements made by the Clerk of the Peace by indentures, the one delivered to the Sheriffe, the other to the Barons of the Exchequer. *Lam.* 591. *Lam.* 548, 562.

Estreats of the penaltrie for shooting in guants, are to be recorded and sent into the Exchequer by the Justice that had the examination of the matter. *Lam.* 292, 295, 297.

Sheriffe or his minister that shall levie any of the Kings debts, without shewing the partie the estreats under the Exchequer seal, shall be fined and pay treble damages to the partie. 24. E. 3. 9. 7. H. 4. 13. *Lam.* 411, 416, 432.

He that estreateth issues of others then were chargeable or charged, loseth five marks to the King 27. E. 7. *Lam.* 412, 417, 432.

Examination.

Felon brought before a Justice, must be examined before he be committed to prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appeare and give evidence at the next goal-delivery. 2. and 3. Ph. & Mar. *Lam.* 196, 207, 212.

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum. ibid.* but the offender shall not be examined upon oath. *Dal.* 264.

Circumstances observable in examination of a felon. *Lam.* 202, 213. *Dal.* 260. *Lam.* 218.

In what offences conviction shall be by examination, *vide* the severall offences.

Conviction cannot be by examination onely, but where the statute giveth it, either by referring it to the

Examination. Extortion. 69

the discretion of the Justices, or specially limittin
it, *Lam. 504, 515, 534.*

Where the statute limitteth conviction to be by
examination generall, a Iustice of Peace may exa-
mine as well the offenders as witnesses. *Lam. 505,*
517, 535.

Where the examination of a Iustice of Peace is
the conviction of the partie, it ought to be upon
oath: but when it is but to inform the Jurie upon
that enditement, it needs not. *ibid. Lam. 536.*

Examination of witnesses is to be taken as well
against as for the King, *Dal. 265.* but Quære whe-
ther it may be upon oath, which maketh against the
King.

Confession of an offender before a Iustice of
Peace is not conviction, except he confesse the same
again upon his triall or arraignment. *Dal. 268.*

Extolling forrain power, *vide* Treason.

Extortion.

Ordinarie, Archdeacon, Officiall, Sheriffe, Es-
cheator, Coroner, Under-Sheriffe, Bailiffe, Goaler,
or other officer, that by colour of his office taketh
more then his fee, or any fee or reward for expedi-
tion, or unlawfully exacteth any oath or other un-
due thing. *Lam. 409, 414, 434.*

Any thing taken *colore officii*, is extortion; but
virtute officii is allowable. *Cro. 57.b.*

The Sheriffe or Goaler taking any thing of a
Constable for bringing a felon to the goal, it is ex-
tortion, *4.E.3.9.* loseth 10 pounds. *Cro.a. 58.b.*

If the Ordinarie or his minister take any thing
to allow a Schoolmaster to teach children, *23.*

Elif. 1. Cro. 58.3.

The Marshall detaining a prisoner after he is discharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinarie citing a lay person to appeare in the Spirituall court to depose there as a witnesse. *Cro. 59. b.*

Vide plus Fees.

A man prescribeth to have 4 pence of every one whose beasts are taken in his ground damage fe-
sant being impounded, and to make amends to
him at his will, it is extortion if he take it. *Cro.*
58. b.

To take any thing for a mortuarie, contrarie to
the statute, 21. H. 8. 6. where the goods come not
to 20 nobles besides debts, or for married woman
or infant, or one that keeps no house, or wayfaring
man, or any that is not resident where he dyed, is
extortion. *Cro. 59. a.*

Faires and Markets.

HE that keepeth a faire or market in a Church-
yard, shall be fined. *Stat. Wint. 13. Elis. 1. Lam.*
404, 419. Lamb. 339.

False imprisonment, *vide Arrest.*

False takers, *vide Cozeners.*

Fees.

The Sheriffe shall have upon arrest by bill,
writ, or warrant, 20 pence; the Baylisfe that maketh
the arrest, 4 pence; the goaler, if he be committed,
4 pence; and for the obligation 4 pence, and no
more.

more on pain of 40 pound. 23. *H. 6. 10. Cro. 58. b. 176. b.*

Bayliffes of liberties are to have like fees as the Sheriffes and their ministers have out of liberties, and like punishment for extortion: *Lam. 334. 27. H. 8. 24. Lam. 413, 418. Cro. ibid.*

Clerk of the Peace to be fined,

For taking above 12 pence for inrolling a bargain and sale of lands not exceeding 40 shillings a yeare, or 7 shill. 6 pence if it do exceed 40 shill. a yeare. 27. *H. 8. 16. Lam. 415, 420.* and the Iustice of Peace the like for taking above the said summes in the said cases. *Cro. 59. a. Lam. 436.*

For taking above 12 pence for recognizance of one that taketh a rogue into his service for a yeare. 14. *Elif. 5. ibid.*

For taking above 2 shillings for a license and recognizance of a Badger, Drover, Lader, or Kidder, and registering the license. 5. *Elif. 12. ibid.*

For taking above 12 pence for a license and recognizance to shoot Hawks meat. 1. *Jac. 27.*

Clerk of a Iustice of Peace to be fined for taking above 12 pence for a recognizance of Alehouse-keeper. 5. *E. 6. 25. Lam. 436.*

Coroner refusing to do his office of one slain by misadventure without fees, loseth 40 shillings. 1. *H. 8. 7. Lam. 413, 418. Lam. 434.*

Coroner taking above 13 shillings 4 pence for doing his office of one slain and murdered, of the goods of the slain; if he have none, of the town where he was slain in the day, and was suffered to escape. 3. *H. 7. 1. Lam. ibid.*

Maiores to have for sealing

Busshels and other measures, a penie.

Weights, viz. a hundred weight, 1 penie; half a hundred, a half penie; lesse, a farthing; and taking above, they lose 40 shill. 7. H. 7. 3. 11. H. 7. 4. *Lam.* 416, 421. *Lamb.* 437.

Parson, Vicar, or Curate taking above 4 pence for entering into the Church-book license to eat flesh on fish-dayes. 5. *Elif.* 5.

Or above 2 pence for registering a Testimoniall of any servant going from one place to another. 5. *Elif.* 4. *Lamb.* 414, 419. *Lamb.* 435.

Ordinarie or his scribe or register, that hath taken more for the probate of a testament or letters of administration then 6 pence for the scribe for writing the probate of the testament that shall be brought written in parchment, and 6 pence for the administration where the goods be not above 5 pound; if above 5 pound, not above 40 pound, then 2 shill. 6 pence for the Ordinarie, and 12 pence for the scribe; if above 40 pound, 2 shill. 6 pence for the Ordinarie, and 2 shillings 6 pence for the scribe, or 1 penie for every 10 lines 10 inches in length at the scribes election; and the like for every copie of a testament or inventorie, or else after the rate of the lines as before, loseth 10 pound and so much as is taken to the partie. 21. H. 8. 5. *Lamb.* 413, 414. *Cro.* 61. a. *Lam.* 434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or minister of the King, that taketh of any that fee or pension of the King, other fee then is given by ancient lawes and statutes, viz. 4 pence for payment of every summe, forfeiteth 6 shill. 8. pence. 35. H. 8. 7. E. 6. 1. *Cro.* 58. a.

Taking

Taking above 4 pence for impounding one distresse, loseth 20 pound. 1. & 2. P. & M. 12.

Felo de se.

A man that kills himself, either with a mediated hatred against his own life, or out of distraction or other humour, is *felo de se*, and forfeiteth his goods reall and personall Chattels to the King, and debts due upon specialtie, but not upon simple contract or without specialtie. *Dal.* 208.

An infant or *non compos mentis* killing himself, doth not forfeit, but a lunatick doth. *Dal. ibid.* *Lam.* 240, 243. *Lamb.* 427.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of Record. *Dal. ibid.*

He forfeiteth no lands, nor is his blood corrupted. *Dal. ibid.*

The inquirie of *felo de se* belongeth to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of Peace may inquire thereof, and a presentment before them intituleth the King to his goods, *Dal. ibid.* *Cook* 5. 110.

Felonie.

Felonies are either } Common law.
by the } Statute law.

By the common law all kinde of homicide not warranted, Burglarie; the stat. burning of houses, rescous, and escapes. *Dal.* 207.

Vide their severall titles.

Felonies

The K. sworn servant conspiring to destroy the K. or any Lord of the Realm, or any sworn to the Kings Councel, or the steward, Treasurer, or Controller of the Kings household. 3. H. 7. 14. *Dal.*

239.

Breaking of prison by one being therein for felony, or a prisoner for felony. 1. E. 2. *de prisonam frangent.* *Dal. ibid.*

And if he scape going to the goal. *Cro.* 49. b.

If under arrest for felony or suspicion, whether in the goal or out, it is breaking of prison. 1. E. 3. 17. *Cro.* 38. a. P. & M. 147.

A stranger breaketh the prison, or openeth the stocks, or makes rescous of one imprisoned or arrested for felony, who escapeth; it is felony in them both. *Dal.* 239. *Cro.* 38. 1. H. 8. 7. 6.

Quære if a stranger disturb the arresting of a felon. *Dal. ibid.*

Rescuing a prisoner going to execution, is felony. *Dal. ibid.*

Goaler, Constable, or other, having a prisoner under arrest for felony, voluntarily suffereth him to escape; it is felony onely in him that suffereth the escape. *Dal. ibid.*

If the prisoner escape by negligence of his keeper, it is felony onely in the prisoner. *Dal. ibid.*

Escape before arrest, is no felony, but the officer may be indited and fined. D. 239. L. 230. *Cro.* 39. a.

Buggery with mankinde or beast.

Burning of houses or stacks of corn.

Congregations and confederacies holden by masons.

Cutting out of tongues or putting out of eyes.

Cutting pond, dike, or bank in marsh-land.

Conjuration or invocation of eyill spirits.

1. Jac. 12.

Consul-

Consultation with an evill spirit, &c. *Vide*

1. *Jac.* 12.

Embezelling the K. ordnance, armour, &c. to the value of 20 shill. though at severall times.

31. *El.* 4.

Embezelling of any record, } These two be-
writ, &c. 8. *H.* 6. 12. } long not to

Rasing of a record. 1. *R.* 3. 9. } J. of P.

Forging of evidences, &c. the second time. 5.
El. 12.

Goaler enforcing his prisoner to become an ap-
prover.

Hawks embezelled and not brought to the She-
riffe.

Havks concealed or stollen from the owner.

Hunting Deere or Conies in the night, & upon
examination concealing the offence, or disobeying
the arrest for such offence.

Taking a tame beast or other thing in a park
by way of robbery.

Marrying a second husband or wife, the first li-
ving. 1. *Jac.* 11.

Multiplication of gold or silver.

Infected with the plague, going into company
contrary to command. 1. *Jac.* 31.

Wilfull poysoning, if the party die within a
yeare and a day after.

To receive, relieve, or maintain Popish priests:

Recusants refusing to abjure or return after de-
parture.

Parveyour taking for the Kings house any thing
above 12 pence,

1 Without warrant under the great seal. *Vide*
Dal. 278. *Edit.* 1626.

2 Buying any thing in any other manner then is
contained in their warrant.

3 Taking

3 Taking any carriage in any other manner then is comprised in their commission.

4 Shall carry away any thing against the owners will, without paying or agreeing for the same.

5 Shall not make his provision and purveyance by the testimony and apprizement by the Constable and 4 neighbours sworn, if the purveyor & owner cannot agree, and shall not deliver tales or indentures sealed with his seal testifying the same.

6 Or shall take more victuals or carriages then he shall deliver unto the Kings house.

7 Or take sheep in wooll betwixt Easter and Midsummer at small prices, or more then be sufficient for the K. house, and carry them to his own and shear them.

In every of these cases it seemeth to be felony in such purveyor, their deputy and servants.

A charter of any subject or officer taking any thing against the owners consent, and not paying presently. 36. E. 3. 6.

Incorrigible rogues banished the Realm, and returning without license. 39. E. 4.

Robbing house, barn, or stable in the day to the value of 5 shill. though no body be within, 39. El. 15. no Clergie.

Robbing any house by day or by night, any person being therein, and thereby put in fear, *ibid.* without Clergie.

Robbing any person in part of his dwelling, any of his houthold being within, *ib.* without Clergie.

To rob any Booth in faire or market, any thing thereto belonging being within, sleeping or waking, *ibid.* sans Clergie.

Servant (other then an apprentice) to whom money, goods, or chattels, &c. are delivered to

keep

keep by master or masters to the value of 40 shill.
do go away therewith or convert them to his own
use, to the intent to sell the same or defraud his
master or masters. 21. H.8.7.5. EL 10. Dal.231.

Souldiers going out of the Realm to serve a for-
rain Prince, not having first taken the oath of
allegiance. 3. Jac.4.

A gentleman or of higher degree, Captain, or
other officer in camp going to serve a forrainger
before he is bound with 2 sureties to the K. not to
be reconciled to the Pope, &c. nor to make nor
consent to any conspiracy against the K. 3. Jac.4.

Souldiers having taken presse-money, not going
with their Captain; or being in service, departing
without license. 18. H.6.19.

Mariners and gunners taking presse-money to
serve the King, and departing without license. 5.
EL 5.

Souldiers and mariners which settle not them-
selves to some good course of life, but wander
idly. 39. Elis.17.

Souldiers and mariners landing, and not having
a testimoniall from some Justice of Peace neare
their landing. *ibid.*

2. Or exceeding the time limited, wilfully,
14 dayes, *Vide* 43. EL 3. that they shall be pu-
nished as rogues.

3. Or forge or have forged testimoniall, know-
ing it to be forged.

4. Or being contained in service after arraigne-
ment, doth depart within the yeare without the
masters license. 39. Elis.17.

Transporting live sheep, the 2 offence is felony.
8. Elis.3.

Ravishing a woman with force, though consent-
ing afterward, 13. E.1. 133.

All

All abbettours in rape and principalls. *Dal. 248. Cro. 47. b.*

To ravish a harlot against her will, is rape. *ibid.*

To take any maid, widow, or wife having lands or goods, or being heire apparent to her ancestour, against her will, unlawfully.

And to receive any knowing them, or to procure and abbet the same. *3. H. 7. 1. Dal. Cro. ibid.*

To abuse a woman carnally under ten yeares of age. *18. Elis. 6.*

To take a mans wife with her husbands goods against her will, or her husbands, *West. 2. 34 Dal. 248. Cro. 35.*

Feloniously to take goods out of any Church or Chappel. *Lam. 400.*

A woman delivered of a bastard, doth by drowning or secret burying thereof by her self or other conceal the death thereof, so that it may not come to light; if it were dead born or alive, it is murder in the mother, except she can prove by one witnesse that the childe was born dead. *2. Jac. 17.*

To acknowledge any fine, recovery, deed inrolled, statute, recognizance, bayl, or judgement in the name of another not privie to the same, is felonie without Clergie. *21. Jac. 16.*

Felonie of his own goods, *vide Theft.*
Ferrets, *vide Hunting.*

Fewell.

One Justice of Peace may set on the Pillorie in the next market town to the place of offence, any person convicted of breaking the assize of fewell, and not able to pay the forfeiture, there to be at

11 of the clock on the market day with a billet or faggot bound to some part of his body. Quære whether one Justice may convict him alone. 7. E. 6. 7. *Lam.* 184, 201. *Lam.* 296.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender for the offence committed against him. *Lam.* 541. *Lam.* 574.

Upon payment of the fine, or upon pledges found a Recognizance to pay it, the offender ought to be delivered. *Lam.* *ibid.*

The assignement of fine belongeth to the Justices before whom the conviction is lawfully had. *Lam.* 543, 576.

Stander by when a man was slain, is to be imprisoned till he make his fine, because he did not his best to attach the murderer: so of other felonies. *Lam.* 124, 135, 285, 288. *Lam.* 132, 289.

Fine upon a forcible entrie or detainer upon offenders convicted of Record by a Justice of Peace, and by him committed to the goal, shall be assessed by the same Justice, and upon bonds with sureties he may enlargethem. *Tamen* Quære and estreat it, and send it into the Exchequer, 162. but it is best to leave the fine to the discretion of the Kings bench. *Lam.* 150, 163. *Lam.* 159. *Dal.* 43.

Upon conviction for offences, where no fine certain is limited, no fine can be assessed till the offender be brought in by *Capias pro fine*, or otherwise, unlesse it be for Alehouses and high-ways. *Lam.* 540, 554. *Lam.* 573.

Where any statute speaketh of fine and ranfome,
the

the ranfome ought to be at least treble the fine. *Lam.* 542, 556, 575.

Where the statute maketh an offence fineable in generall terms, or at the Kings will, the Iustices of Peace before whom the conviction is had, may asseſſe the fine, 543, 557. which is fittest to be done in open Sessions. *Lam.* 544, 558, 576.

Fines upon the statute of tyles, of crossebows, and of alehouses, by expresse words of the statute may not be altered. *Lam.* 545, 559, 578.

Fines must be reasonable and just, according to the qualitie of the offence. 34. E. 3. 1. *Lam.* 544, 558, 577.

After one is taken by a *Capias pro fine*, the Iustices of Peace are to asseſſe the fine by their discretion, and to deliver the partie. *Lam.* 541, 554, 574.

Fines of rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide* Assize of bread.

Fish.

Stealers of fish out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and 3 moneths imprisonment. 5. E. 1. 21. *Lam.* 121, 424, 429, 446.

If any cast nets into waters by which the frie of fish may be taken, or take Salmones betwixt the nativitie of Marie and S. Martin, or young Salmones betwixt the midst of April and Midsummer, one Iustice may punish them for the first offence, by burning their nets and engines; for the second, by three moneths imprisonment; for the third, by one yeares imprisonment; and for any of them, by fine at the discretion of the Iustice. 17. R. 2. 9. *Lam.*

334, 179, 430, 436, 557. *Lam.* 190, 454, 576.

Forfeitures upon the statute, 3. *Jac.* 12.

Where any offence is committed, in destroying the spawn or brood of sea-fish, a fine may be levied by distress and sale of the offenders goods, by warrant from one Justice of Peace to the Constables or Churchwardens. 3. *Jac.* 12.

He that shall be preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any dayes now usually observed for fish-dayes, is for necessitie of salvation of souls, or is the service of God otherwise then other publick lawes be, shall be punished as spreaders of false news are and ought, &c. 5. *El.* 5. 2. *Jac.* 25. *Lam.* 442.

Any publishing that eating of flesh on fish-dayes is necessarie to salvation, or otherwise then as a politick law, is to be imprisoned, 5. *El.* 5. *Lam.* 425, 426, 442.

Any except aged, sick, with childe, or licensed, eating flesh in Lent, or on fish-dayes, loseth 20 shill. and one moneths imprisonment. 5. *El.* 5. 27. *Elis.* 11. *Lam.* 433, 458.

Taverners, inkeepers, common tabling-house, tipler, or alehouse-keeper, offending against the statutes, 5. *El.* 5. and 2. *Jac.* 29.

Against killing, dressing, and eating of flesh, is to lose the flesh, and the penaltie of 5. *Elis.* 5. which is 5 pounds. 1. *Jac.* 29. *Lam.* 458.

Forfeiture upon the statute, 1. *Jac.* 29. for eating of flesh, except such as be taken by the Justice of Peace, Maiors, Bailiffes, head officers or Constables, are to be equally divided betwixt the King and the informer. 1. *Jac.* 29.

License granted to sick persons to eat flesh on

fish-dayes, shall be no warrant for them to eat beef, mutton, veal, pork, or bacon. 1. *Jac.* 29.

Butcher or other, though licensed, killing in Lent to sel any ox, beef, hog, calf, or mutton, except three dayes next before Easter, or oxen, or beef for victualling of ships, loseth the meat or value. 1. *Jac.* 29.

Justice of Peace, or head-officer of corporations, or Constables of towns, may in Lent search victuallers houses suspected of dressing flesh, and finding any flesh, beef, hog, calf, or mutton, may seise on it, and give it to the poore. 1. *Jac.* 29.

Flax.

Forfeiture due to the informer upon the statute, and hemp to be levied by what proceſſe the Justice will. 24. H. 8. 4. *Lam.* 550, 565, 584.

Flesh, *vide* Fish-dayes.

Forrain power, *vide* Treason.

Forrain plea, *vide* Triall.

Force.

Force is two-fold.

Every trespassse in judgement of law is a force, and the action may be, *Quare vi & armis. Dal.* 166. *Lam.* 141. ^{icc}

That which is properly so is either $\left\{ \begin{array}{l} \textit{Manu forti}, \text{ or} \\ \textit{Multitudine}. \end{array} \right.$

Manu forti is violence offered to the person of another by deed or word. *Dal.* 166.

By deed, as actuall violence, or to be furnished with offensive weapons not usually born. *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be said to be armour. *Cro.* 74. b.

Multitudine, when there be two or three in a companie, or more, *Dal.* 167. Forci-

Forcible entrie.

83

Forcible entry must be an actuall entry. *Dal.* 168

If one or more come weaponed, especially with weapons unusually worn, and violently enter into an house or land. *Dal.* 167. *Lam.* 134, 135, 145, 147

Much more being entred, if he or they offer violence, or fear of harm to any in possession, or drive any out of possession. *Dal.* *ibid.* *Lam.* 142.

Many come to do a force, and one onely useth force, all are guiltie. *Dal.* 172. *Lam.* 134, 143, 146.

To enter peaceably, and forcibly to put out another. *Dal.* *ibid.* *Lam.* *ibid.*

To enter peaceably, and after to offer violence, threatnings, or fear of harm to one in possession, with intent to get him out, though he get him not out. *Dal.* *ibid.* *Lam.* *ibid.*

Who shall be said to enter with force.

Entring peaceably, and saying they will hold although they die for it. *Dal.* 167. *Lam.* 146.

To enter peaceably with weapons not usually born by them to house open or grounds. *Dal.* *ibid.*

The Master entring with moe servants then usually. *ibid.*

A trespassse made *manu forti*, or *cum multitudine* though it be but to cut or take away another mans corn, grasse, or goods, or fell or crop wood, or to do any other trespassse, though the partie be not put out of possession, yet it seemeth forcible entry punishable by the Statutes: but otherwise if the entry be peaceable, yet it is disseising with force. *Dal.* 167, 168. *Lam.* 133, 143, 145.

To enter peaceably, and after entry, by force or violence to cut corn, grasse, wood, &c. or carry away anothers goods, is force. *Dal.* 168. *Cro.* 70.

To distrain for rent due or not due with force, doth countervail a force. *Dal.* *ibid.* *Lam.* 144.

Divers enter where the entrie is not lawfull, and all save one demean themselves peaceably, and one onely entreth with force, or after entrie useth force, it is forcible entry in all. *Dal.* 172, *Cro.* 22.a. 24.b. 34. b. *Lam.* 143.

In all these cases of trespassse, onely the Iustice of Peace may, as it seemeth, remove the force, and upon view imprison and fine.

Forcible entrie by words.

To enter peaceably, and then to offer by threatening to kill the disseise if he reenter. *Dal.* 168.

What is not force.

To enter by fair means, his entry being lawfull, and perswade them within to come out, and the doore being open, or shut by the latch, to enter without combating, or offensive weapons, or other violence. *Dal.* 168.

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam.* 145.

To take a man being out of his house, & imprison him, and in the mean time to send another peaceably to enter, is no force. *Dal.* 169. *Lam.* 146

He that onely agreeth to a forcible entry made to his use.

Forcible detainer.

Forcible detainer is of lands and tenements, not of the person. *Dal.* 169. *Lam.* 137, 146.

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three yeares. *Dal. ibid.*

To deny a Justice of Peace to enter (upon supposure of a forcible detainer) is forcible detainer, though

though it be but by one person and no weapons shewed. *Dal.* 169. *Lamb.* *Cro.* 70. b. *P. R.* 4. 1. *Lamb.* 145.

If the Justice enter and findeth any arrived, or any armour or unusuall weapons lying by them, or finde more then the ordinary family. *Dal.* *ibid.* *Lamb.* 145.

What shall be said a forcible detainer.

To enter peaceably and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assail the enterers. *Dal.* 169. *Lamb.* 145.

The disseiser forstalleth the way of the disseised with force, so that he dare not come near. *Dal.* 170. *Cro.* 69. *Lamb.* 145.

To keep Cattel by force where he hath no common, the Justice may imprison and fine, but not make restitution. *Dal.* *ibid.* *Cro.* *ibid.* *P. R.* 39.

Forcible detainer to resist the lord in taking a distresse. *Lamb.* 146. *Dal.* 141. *Cro.* 70. 2. *P. R.* 39.

To detain a house morgaged by force from the morgager, is forcible detainer. *Dal.* 170, 171.

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseiser if he come again. *Dal.* 170. *Lamb.*

It seemeth to amount to a forcible detainer to threaten to maym him, beat, or do bodily hurt to the disseised if he come again, *Dal.* *ibid.* for that death may ensue upon such beating or hurt.

What is not forcible detainer.

One entreteth peaceably into a house, and finding

armour or weapons, doth not remove them. *L. 145.*

To threaten to burn his house or spoil his goods, to deny to open the doores, to deny to go out. *Dal. 170.*

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture. *Dal. 171.*

The tenant forestalleth the way by force and armes, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *ibid.*

The tenant maketh rescous of the distresse with force and armes.

In these cases of rent or common, the Justice may remove the force, record it upon new, imprisonment and fine, but can award no restitution.

Forcible entry.

What persons may make a force.

One alone, if it be with offensive weapons or turbulent behaviour to the affray of others. *Dal. 166, 167, 171. Lamb. 143.*

An infant of the age of 18. *Dal. ibid. Cro. 69. a.* and so he may though he be under 18.

A feme covert may by her own act make a forcible entrie or detainer, and she may be imprisoned and fined, but the fine cannot be levied on the husband. *ibid.*

Consent.

If one command or counsel others to a force, and be present, though he do nothing, he is a principall, *Dal. 172.* but if absent, a disseiser.

Divers

Divers enter, one onely committeth force, all are guiltie *ibid.*

Who cannot be put out.

The King cannot be disseised, therefore an enditement upon the statute, 8. H. 6. for the K. is not good, neither can the Kings farmer prefer a bill of enditement upon the said statute, but must have an information in the Exchequer. *Dal.* 172. *Cro.* 69. a.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3 yeares together, *Lamb. Dal.* 178. and may hire strangers to maintain his possession, and have his company in armour, *Dal.* 179. *Cro.* 71. but he may not resist the Iustice of Peace that cometh to view.

Upon enditement of forcible holding the plea 3 yeares, lawfull possession next before avoideth imprisonment, fine, and restitution. *Dal.* 179.

But it holdeth not,

1 If the entry were forcible, though the holding peaceable.

2 If the holding were forcible, though the entry peaceable.

3 If a disseiser have continued peaceable 3 yeares. *Quare* if he shall be helped by 8. H. 6. or, 31. El. If a disseiser have forcibly continued his possession 10 yeares, he may be endited upon 8. H. 6. and the Iustice may make restitution. *Cro.* 71. a.

4 If the possession of 3 yeares have been interrupted, *Dal.* 173, 180. *Cro.* 71. a. *Lamb.*

A disseiser quietly holdeth 3 yeares, and after the disseiser entreth or maketh claym, the disseiser reentring cannot hold with force, for he is in upon a new disseising. *Dal. 180.*

A lawfull possessor, after 20 yeares possession is acted, he can neither reenter nor hold with force. *ibid.*

What force is lawfull.

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgement of the law: as,

1 To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2 A Sheriffe or his officers to apprehend by virtue of the Kings writ.

3 A Justice removing unlawfull entries or holding of possessions, and repressing riotters. *Dal. 176.*

4 Justice, Sheriffe, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or break the peace.

5 It is lawfull by force to break open doores, to arrest offenders within, if the officer cannot otherwise enter.

Note that the officer is first to signifie the cause of his coming, before he attempt to break open the doores, *5. Dal. 177. 25*

First, for treason, felony, or suspicion of felony. *Cro. 170. b.*

2 Where one hath dangerously wounded another. *Cro. 131. 2.*

3 An affray being in the house. *Cro. 146. b.*

4 Upon a forcible entry or detainer found by inquisition. *Dal. 176.*

5 Upon

5 Upon a *capias ut legatum* in personall action, or *capias pro fine* directed to the Sheriffe. *Cro.* 170. b.

6 Upon warrant or processe for attaching a Popish recusant excommunicate. 3. *Jac.* 4.

7 Upon a warrant for the peace or good behaviour. *Dal.* 176, 177. but *Crom.* 176. b. maketh Quere.

8 Upon recovery in a reall action or *ejectione firmâ*, but not to execute the Kings processe upon the body or goods of any person at the suit of any subje&. *Dal.* 177.

9 In all cases where the King is party. *ibid.*

1 Forcible defence is lawfull for every man to keep his house to himself, his family and goods, as his castle, aswell for defence against injury, as for his repose. *Vide plus Houses.*

2 In defence of husband, wife, father, mother, or master.

3 Father or mother in defence of the childe within age. *Dal.* 151.

4 In defence of my goods or my land. *Dal.* *ibid.*

In these cases he that attempteth may be disturbed; and if he attempt to assault or lame me, I may beat him again, aswell in defence of my person as possessions, but not kill him. 152.

What Justices of Peace are to do in forcible entry or detainer.

Every Justice upon complaint or notice given, ought at the cost of the party grieved, to do execution: *viz.*

1 He must go to the place. *Dal.* 41. *Lamb.*

2 Take sufficient power of the county or of the Town, and the Sheriffe also, if need be, aswell to arrest

arrest offenders, as also for removing of the force, and for conveying them to the goal. *Dal. ibid. Lam.*

3. Arrest and remove all offenders, and take their weapons, and prize them for the King. *Dal. ibid.*

If the doores be shut, and entrance denied, he may break open the house. *Dal. 42. Quere.*

The Justice cannot arrest or remove them if he finde no force, except by enquirie. *Dal. 42.*

The Justice ought to make a record of the force, and either keep it by him or indent it, and certifye one part either into the Kings Bench, or to the Clerk of the Peace, and keep the other. *Dal. 42.*

The record of the Justice is a sufficient conviction of the offender, and is not traversable. *ibid.*

The Justice ought to commit immediately to the next goal, those which he findeth continuing the force, untill they pay their fine, *ibid. & 91.* or forfeit an 100 pounds. *ibid.*

But such force must be in the presence or view of the Justice.

The Justices or some of them that see the force, are the proper Judges of that offence, and may assess the fine, but it must be upon every one severally, *Dal. 91.* and is to be estreated into the Exchequer; upon which assessing and estreating the partie is to be delivered. *Dal. 43.*

And so upon payment of the fine to the Justice, or recognizance for payment. *Dal. 43.*

Quere, for the Sheriffe is accountable for all fines.

Or the Justice may record the force, commit the offender

offenders, and certifie the record to the J. of Assize or to the Sessions, and there the offenders fined. *Dal. 43. Cro. 161.a.*

But ought more properly to be assessed by them that record the force, *Dal. 91. Cro. ibid.* and to be of value.

Or the Justice may certifie the record into the Kings Bench, referre the fine thither, *Dal. 43.* which *Lambert* thinketh the best course.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti.*

The force ought to be inquired of in some good place or town neare where the force was, *Dal. 43.* and that within a moneth if it be a riot. 92. One Justice may enquire. *Dal. 43.*

Enquirie may be though the offenders be not present, or though the Justice go not to see the place where the force is. *Dal. 43, 44. Lamb. 152.*

Without enquiry there can be no restitution. *Dal. 44, 183. Cro. 161.b. 164.a.*

Upon enquiry making, the Justice must direct his precept to the Sheriffe to summon 24 of 40 shill. a yeare land *per annum.* *Dal. 182.*

Upon default the Justice may award an *alias* and *pluries infinitè* till they come.

The Sheriffe, at the day of the second precept, must return 40 shill. in issues upon every one, at the third writ five pound, and at every day after the double. 8. *Hen. 6. o. 9.*

If any jurour have not 40 shill. land, yet the enditement is good for the King. *Quere* if there shall be restitution, *Dal. 182. Lam. 152.*

Returning of smaller issues then the statute, hindreth not the enquiry, *Dal. ibid. Lam. ibid.*

Upon

Upon enquiry the Iustice may make restitution, *Dal.* 44, 182. wherein the Iustice needeth not to examine the title. *Dal.* 183. *Lamb.* 156.

A restitution before inquisition, *ibid.* *Cro.* 161. 8. 164. 3.

In the enditement not onely the entry but also the putting out must be, and *& adhuc extra tenent*; *Lam.* 153. for lack of these words no restitution can be made. *Dal.* 44, & 181. *Cro.* 163. 8. *Lam.*

The enditement must be good, both in matter and form, *Dal.* 183. the words *manu forti* or *cum multitudine* are necessarie. *ibid.*

The enditement must expresse the qualitie of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and to enertain. *Dal.* *ibid.*

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other. *Dal.* 184. *Cro.* 162. 3.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the partie may grant a *superfedeas* to stay restitution, if restitution be not made. *Dal.* 184. *Cro.* 165. 3.

But no Justice not present can grant a *superfedeas*. *ibid.*

The Justice may make restitution, or give warrant to the Sheriffe, or certifie into the Kings bench, and leave the award of restitution to that Court. *Dal.* 44, 185. *Lam.* 156.

None can grant restitution but they before whom the force was found, *Dal.* 44, 185. except the Kings Bench.

None can personally restore the partie, but he that took the enquiry, *Dal.* 185.

But

But by precept to the Sheriffe. *Lam.* 158.

After enquire the Justice of Peace may break in to the house by force, and put the ejected into possession. *Dal.* 44.

If restitution be made without enquire, it is punishable in the Starre chamber. *Dal.* 45.

Restitution must onely be made to him that was put out. *Dal.* 45, 185.

Restitution is to be made onely of house and lind, *Dal.* 183. but not of rent, common, or advowson. 45.

Restitution may be made notwithstanding a traverse, *Dal.* 45. but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Starre chamber. *Dal.* 45.

The offenders being gone, the Justice may send his warrant, and commit them till they finde suretie of their good behaviour. *Dal.* 45.

If force be made by three, it is a riot. *Dal.* *ibid.*

The proceedings upon a writ upon the statute of Northampton, 2. Ed. 3. 3.

1 The Justice of Peace to whom this writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the writ he may cause 3 O yes, and then make proclamation for silence, *prout Dal.* 46. *Cro.* 72. a. b. *Lam.* 168.

2 Then may he reade or cause the writ to be read, or declare the effect thereof.

3 Then let three O yes be made, and make proclamation

clamation again for the peace, *prout Dal. 47. Cro. 42. b. Lam.*

4 Either enter and search for armour, or enquire by jury. *ibid.*

All that remain after proclamation, are to be imprisoned, and the armour apprized. *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

The execution of the statute of Northampton without writ.

Every Justice of Peace may execute it *ex officio* without writ. *Dal. 47. Cro. 72. a.*

The difference in the manner of execution is, that without writ there needeth no proclamation nor certificate into the Chancerie, but the Justice may enter, search, commit the offenders there found, apprise the armour, record all what he shall do, and thereout send an estreat into the Exchequer. *Dal. 47, 48. Cro. ibid.*

The Justice cannot make restitution to the partie outed, but onely remove the force. *ibid. Lam. 162.*

Of causes to stay granting of restitution, *vide Dal. 187.*

Forfeitures of a recognizance taken for the Peace.

Whatsoever is a breach of the peace, the same is a forfeiture of the recognizance, *Dal. 148. as,*

1 To threaten a man to his face to beat or kill another, *Dal. 148. Cro. 136. b. Lam. 115.* but not if he be absent, *ibid.*

2 To

2 To strike at, or offer to strike at a man, though he hit him not.

3 All affrayes, malicious and violent striking, or other misintreatings of the person of another. *Dal.* 148. *Lam.* 127.

4 To go with companie or weapons unusuall. *Dal. ibid. Cro.* 137. a. *Lam.* 126.

5 To command or procure another to break the Peace, and if it be done in deed. *Dal.* 148. *Lam.* 115. *Cro.* 137. a.

6 Imprisoning or arresting another without warrant. *Dal.* 148. *Lam.* 127.

To thrust one into the water, whereby he is in danger of drowning.

To ravish a woman against her will.

To commit burglarie, robbery, murder, manslaughter, or do any treason against the person of the King. *Dal.* 149. *Lam.* 127.

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance of the Peace, must be done unto the person of another. *Dal.* 149.

Of a recognizance, *vide* recognizance, *vide plus* breach of the Peace and Fines.

One committed for pettie larcenie, and convicted thereof, shall forfeit his goods. *Lam.* 273. *Dal.* 230. *Cro.* 36. b.

Forfeitures upon statutes, *vide* Severall statutes.

Forgerie.

Second forgerie of deeds concerning anothers land after a former conviction is felonie, *5. El.* 14. but not enquirable by the Justice of Peace. *Lam.* 244. *Cro.* 56. b.

Forrain

One indicted of pettie treason, murder, or other felonie, pleadeth a forrain Plea triable by Jurie, it shall be tried before the Iustices before whom he was indicted, and by the jurours of the same Countie. 22. H. 8. 14. 32. H. 8. 3. *Lam.*

Forrester killeth any man in his office making resistance, it is justifiable. 1. E. 1.

Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth for any victuals or wares before they come to the market, faire, or port, or moveth the partie to the price, or not to bring them to the market, faire, or port. *Lam.* 450.

Forestaller convicted before the Iustice of Peace at the quarter Sessions by examination of two witnesses, or presentment for forestalling, for the offence shall

1 Lose the goods, and be imprisoned 2 moneths without bail or mainprise.

2 For the second lose double the goods, and be imprisoned for 6 moneths.

3 For the third lose all his goods, stand in the pillorie, and be imprisoned during the kings pleasure. 5. E. 6. 4. *Lam.* 570.

The moytie of the forfeiture upon the statute of forestallers due unto the partie, is to be levied by *Fieri facias* or *Capias* to be awarded by the Iustice of Peace. *Lam.* 584.

Fowlers and Fowling.

Shooter, taker or destroyer by gunnes, bows, setting dogs, nets or other engines, of any Pheasant, Partridge,

Fowlers and Fowling. 97

Partridge, Pigeon, Heron, Mallard, Duck, Teal, Wigeon, Growse, Heathcock, Mooregame or such fowls, upon conviction by confession or oath of two witnesses before two Iustices of Peace where the offence or apprehension is, to be imprisoned 3 moneths without bayl, unless he pay to the Churchwardens of one of the places, to the use of the poore, 20 shillings for every Pheasant, and also for every egge of Pheasant, Partridge, or Swan taken or destroyed, or after one moneth of his commitment become bound with two sureties in recognizance of 20 pound never to do the like, the same recognizance to be returned to the quarter Sessions. 1. Jac. 27. Lam. 334. Dal. 67.

Vide Partridges and Pheasants.

Games, *vide* Unlawfull games.

Goal, Goaler.

Goaler or Sheriffe may make a goal of his Gown house; so cannot a constable nor Iustice of Peace. Lam. 133. Dal. 129.

Goaler suffers a felon to go at large, and he escapes; it is felonie in the goaler, not in the prisoner. Lam. 229. Dal. 239. P. R. 147, 149.

Goaler by hard and cruell custodie compells his prisoner to become an approver; it is felonie. 14. E. 3. 17. Lam. 231, 420. Dal. 244. Cro. 49. a.

Goaler killeth an unruly prisoner which doth assault him; it is no felonie. Lam. 235.

Goaler by hard usage killeth his prisoner; it is murder. Lam. 240.

Goaler that taketh above 4 pence upon commit-

G

ment

ment of any prisoner arrested or attached, forfeiteth 40 pounds. *Lam. 23. H. 6. cap. 10.*

Goaler or Sheriffe refusing to take a felon delivered by Constables or Township, or taking any thing for receiving, is to be fined. *4. E. 3. 10. Lam. 434.*

Six Iustices may in sundry shires take order for the common goal, whereof the Sheriffes shall have the custodie, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute. *23. H. 8. cap. 2. 13. Elis. 25. Lam.*

Accountant for money levied for the goal to build it, goeth into another countie; the Iustice of Peace where the goal is, may send an attachment for him unto another shire. *33. H. 8. cap. 5. 5. Elis. 24. Lam. 525.*

Goaler suffereth a prisoner to go abroad out of his sight, and he returneth again; it is an escape. *240. Cro. 39. b.*

Goaler refuseth to receive one arrested for felonie, the town must keep him till the goal-delivery, *Dal. 289. Cro. 172. a.* but the goaler denying to receive such, shall be punished by the Iustices of goal-delivery. *ibid.*

Goaler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on pain of 10 pound to the King and 100 shill. to the partie, *34. E. 3. 9. Cro. 185. a. b.*

Glassemen.

Glassemen of honest life may travell without begging within the countie, by license of 3 Iustices under their hands and seals, one being of the

Goldsmith.

99

the Quorum, 39. E. 24. but by 1. Jac. 7. they are made rogues, and so to be punished.

Goldsmith.

Goldsmith, or worker of gold must work as fine silver or gold in allay as the sterling, and set his mark on it, or forfeit the double value. 2. H. 6. 14. Lam. 467.

None to gild any thing or any metall but silver, except spurres of Knights, and apparell of Barons or above, on pain of 10 times the value and a yeares imprisonment. 8. H. 5. 3. Lam. 467.

Good abearing.

Good abearing may be granted upon discretion; and that by one Iustice of the Sessions; yet better not to command it but upon speciall cause seen to themselves, or upon suit of others, and those very honest, and seldome for one cause alone, and not by one Iustice onely. Lam. 120. Dal. 159.

Good behaviour may be granted by speciall writ out of the Chancerie, *Custodibus pacis & vicecomiti & eorum cuilibet*, upon the statute of 34. Ed. 3. 1. Lam. 117. Dal. 159.

For what causes it is grantable,
Dal. 160.

- 1 Against common barretours, quarrellers, and disturbers of the Peace.
- 2 Rioters.
- 3 Lyers in wait to rob.
- 4 Generally feared or suspected to be robbers by the high-way.

G 2

§ Such

5 Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.

6 Such as shall practise to poyson another.

7 Against all such as be of evil name or fame generally, but especially against such as are defamed in these particulars.

1 Those that haunt bawdy houses.

2 Suspected to keep houses of common bawderie.

3 Common whoremongers and common whores.

4 Night-walkers that be suspected to be pilferers.

5 Evesdroppers that cast mens carts and gates into ponds, and such like misdemeaners in the night; such as live idly, yea fare well and go well clad, having little to live on, except upon examination they give good account of such their living.

6 Common hunters of Alehouses or Taverns, having small means to live on.

7 Drunkards twice convicted.

8 Messengers of thieves.

9 Such as make false hue and crie

10 Cheaters and cozeners.

11 Libellers.

12 The putative father of a bastard.

13 Unlawfull hunters in Parks, after examination taken.

14 Abusing of officers in executing their office, as Iustice of Peace, Constable, or other officer of the Peace; as a Iustice seeth a man break the Peace, and doth charge him to keep the Peace; who answereth, he will not.

Words

Words of contempt against a Iustice of Peace, though he be not executing his office.

15 Abusing a Iustice of Peace his warrant.

16 He that complaineth of riot or force, and the Iustices being assembled for inquiry will not prosecute.

17 He that chargeth one with felonie before a Iustice, and will not prosecute.

18 Abusing of a *supersedeas* of the Peace to a wrong end.

By divers statutes.

1 Disturbers of preachers. 1. *M.* 3.

2 Destroyers of fish-ponds or stealers of fish, after lawfull conviction. 5. *Elif.* 21.

3 Takers of hawks or hawks eggs out of other mens grounds after lawfull conviction. 5. *Elif.* 21.

4 Stealers, hunters, or killers of Deere or Conie in Park or Warren after lawfull conviction. 3. *Jac.* 3.

All these must be bound at the Sessions.

5 Popish recusant must be bound in the Kings Bench. 23. *Elif.* 1.

6 One pardoned for felonie, bound before the Sheriffe and Coroners. 3. *Ed.* 3. 3.

7 Disturbers of the execution of the statute for rogues. 39. *El.* 4.

8 Disturbers of the execution of the statute for the Peace. 39. *Elif.* 4.

9 She that hath had twice a bastard. 7. *Jac.* 4.

10 Infected with the plague, or having their houses infected and are unruly. 1. *Jac.* 3.

Greyhounds, *vide* Hunting.

Gunner that departed from his Captain without license, or wandring with a forged license, it is felonie. *Lam. 427.*

Every person may attach an offender against the statute, 133. H. 8. 6. and carrie him to a Iustice of Peace. *Dal. 49.*

And the Iustice upon examination may send him to the goal till the penalie be paid.

The particulars of the statute, 33. H. 8.

None under 100 pound *per annum* may shoot in, or keep a gunne, dagge, pistoll, crossebow, or stonebow.

None may have or use any gunne under 3 quarters of a yard in length.

One of a 100 pound *per annum* may take such gunne from the offender, or any crossebow or stonebow, and may keep the bow, but must break the gunne.

Nohe may travell with a gunne charged or bow bent, but in time of service, and to the musters, except he have a 100 pound *per annum*. *Dal. 49. Dal. 64.*

None may shoot in a gunne neare a market town, but in defence of his house or person, or at a But.

The master may not command his servant to shoot, except at a But or in warre.

1 Except servingmen (whose masters are enabled) at a But.

2 Inhabitant of market town.

3 Persons dwelling alone or neare the Sea within five miles.

4 Gunmakers.

5 That

§ That have Placards.

All persons which shoot in gunnes, ought to present their names to the next Iustice of Peace, and the Clerk of the Peace should record it.

Vide plus Hunting.

Hares.

Buying and selling of Hares, *vide* Partridges: see the statute, 1. Jac. 27. in fowlers.

Harnesse and habiliments of warre.

To imbezell habiliments of warre or victuals provided for souldiers, mariners, or gunners, is felonie. 3. El. 4.

Hart proclaimed, *vide* Deere.

Harvest time.

Artificers and other persons meet to labour, compellable by one Iustice of Peace or Constable; and the refuser to labour in hay time or harvest, to be put in the stocks two dayes and one night. *Lamb.* 475.

Hawks and hawking.

Unlawfull taker of Hawks egges is to have 3 moneths imprisonment, there to remain till he finde sureties for the good behaviour for 7 yeares. §. El. 21. *Lam.* 446.

Taking of hawks egges upon ones own grounds or anothers, or any Birer, or driving them out of their covert, or bearing any hawk of the breed of England, called a Nyeffe, Goshawk, Tassel, Lanner, Lanneret, to be imprisoned a yeare and a day, and lose ten pounds and the hawk. 11. Hen. 7. 17. Lam. 446.

Every Justice of Peace may examine the offences for hawking or hunting with spaniels in eared or codded corn, and binde over the offender with sureties to the next Sessions. 23. Elis. 10. Dal. 30. Lam. 447.

Against hawking at pheasant or partridge between the first of July and last of August, vide 7. Jac. 11. & Partridges.

Vide plus Larcenie, & Felonie.

Hay and Oats.

Inholder taking any thing for litter, baking horse-bread, except in town or village being a through-fare, and being no citie, town-corporate, or market-town, the same to be of assize and weight after the price of corn and grain in the market, or sell horse-bread, hay, oats, beans, pease, provender and all kinde of victuals both for man and beast for reasonable gain; for the offence,

- 1 Fined.
- 2 Imprisoned for a moneth without bail.
- 3 Stand on the pillorie without redemption of money.
- 4 Forcjudged for keeping inme again. 21. Jac.

Hedge-breakers.

Breakers and cutters of hedges, pales, rails, or fences, cutters and carriers away of corn growing, robbers of orchards or gardens, pullers up of fruit trees, with intent to carry away, cutters or spoilers of woods, poles, or standing trees, convicted before a Iustice by confession and one witness upon oath, are to render such damage as the Iustice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without bail, till he cause it to be done. 43.

Elif. 7.

No Iustice to proceed against such trespasses for offences done to himself, without instance of another. *ibid.*

The second offence is whipping. 43. *Elif. 7.*

High-ways.

One Iustice may cause high-ways to markets to be enlarged, and cleansed of bushes and trees. 13.

Elif. 1. 5. Dal. 51.

Every Iustice may present upon his own knowledge in open generall Sessions, any highways insufficiently repaired, or any default against the statute 2. and 3. *Th.* and *Mar.* 8. and 5. *Elif.* 13. and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may assesse the same, though the presented be absent, saving to the offender his traverse. *Dal. 51. Cro. 125. b. 195. a*

The defaults contrarie to these statutes.

1 If the Constable and Churchwardens do not on Tuesday or Wednesday in Easter week choose surveyours for high-ways.

2 If six dayes be not by them then appointed for mending

mending high-ways before Midsummer.

3 If notice be not given by them openly in the Church the Sunday after Easter of the said six daies

4 If he that hath a plow-land in tillage, or pasture, or draught, do not for every draught or plow-land send one cart with two able men to work 8 houres of every of the said six dayes, 20 shill.

And every other parishioner having 5 pounds in goods, 40 shillings in lands in the subsidie, must finde every day two able men, or lose 10 shillings; and every cottage one, or lose 12 pence a day.

But 18 *Elis.* 9, he that occupieth a plow-land in severall parishes, onely where he dwelleth; and he which hath plow-land in severall parishes, shall be charged in each town. *Dal.* 52. *cro.* 82.b.

5 If the carriages be not thought needfull by the surveyours, then two able men for every cart spared

6 If fences, hedges, and ditches next adjoyning to the high-ways be not kept low, scoured and repaired.

7 If all trees and bushes growing in the high-ways be not cut down.

8 If any chosen to be surveyours refuse the office or do not execute it.

9 If the surveyour do not within one moneth next after the offence committed present it to the next Justice.

10 If the Bailiffe or Constable who receiveth the estreats, do not levie the same, or make not a true account and payment of all summes levied to the Constable and Churchwardens, or the Constables and Churchwardens have not employed them upon the high-ways.

If the surveyours do certifie the next Justice in a moneth, the Justice ought to certifie the present-

sentment at the next Sessions.

If the surveyours present not til after the moneth, and the Justices do certifie it at the next Sessions, it is not good against the offenders.

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of Aprill, and compell them to pay all such arrerages as they shall adjudge to the Constables and Churchwardens, or imprison them till payment of such arrerages be made, and call the surveyours and Constables and Churchwardens to an account.

All fines at the Sessions for high-ways, shall be levied by estreats indented by the Clerk of the Peace, and delivered by him within six weeks after Michaelmasse. *Dal. 53.*

The Bishops Chancellour and three Justices of Peace, may examine the bestowing of any money appointed by any statute for the amending high-ways or bridges, and call to account the detainer thereof. *14. Elis. 5. 29. Elis. 8. Lam. 366.*

Upon enditement for repair of bridges in high-ways, there shall be like processe as the Kings Bench useth, or such as the Justice of Peace thinketh meet. *22. N. 8. 5. Lam. 523.*

High-ways leading from one market town to another, shall neither have dike, underwood, or bush, whereby a man may lurk to do hurt, within 200 foot of one side or other: if default be in the Lord, and any robberie be done therein, he must be answerable for it; and the Lord of a park must set it 200 foot from each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot passe. *Dal. 130.*

Homicide,

one killeth the other; it is a continued fray. *Dal. ibid. Cro. 23. b. 24. a. 26. Lam. 250.*

The servant fighting in his masters defence, though there were malice in the master not told to the servant, *Lam. 248.* so a stranger suddenly taking part. *Lam. 248.*

Two that were in malice are reconciled, fall out upon new occasion, and one is killed; it is manslaughter onely. *Dal. 215. Lam. 250.*

Se defendendo, when one killeth another in the necessarie defence of himself or his, thereby to save himself or his possessions or goods, or some other persons which he is bound to defend from perill: and it is either against a felon, as murderet or thief, or a loyall subject. *Dal. 220. Lam. 252.*

Against a loyall subject, if he be assailed by another man, he must flie so much as he may till he be letted by some wall, ditch, hedge, preasse of people, or other impediment, that his necessitie of defence may seem inevitable, and he shall be committed till the time of his triall, lose his goods, and seek his pardon. *Lam. 153. Dal. 221.* It is not materiall though he strike again, if before he give any deadly wound he flie to the strait.

Neither is it materiall though there were former malice, unlesse he lie in wait for the other, or agree for the place of fight, or strike the first stroke. *Lam. 253. Dal. 221.*

Or assaulted in his own house upon a sudden quarrell, or thereby killeth him, *Lam. 254.* but he forfeiteth his goods and must have his pardon, except the assayant came with a felonious intent to kill or robbe him. *Dal. 221. Cro. 28. a. Lam. 254.*

A man falleth to the ground, there his flying to a strait is not necessarie, *Dal. 225.*

An officer or minister of Justice, in executing his office being assaulted, is not bound to flee.
Dal. 214.

A servant killing him who robbed or killed his master, so it be done presently, or in defence of his masters person or goods, if it cannot otherwise be avoided. *Dal. ibid. Cro. 28. a.*

Forrester, Parker, or Warrener, or any in their companie, killing an offender in a Forrest, Park or Warren, after hue and crie to keep the Peace, if they yeeld not themselves, or flie, or defend themselves by violence, is no felonie. *Dal.* 222. *Quare* if there be no malice in the keeper. *Cro.* 30.b.

It is justifiable by me, my servants or company, to kill one who attempteth feloniously to murder or rob me in my dwelling house, or in or neare a high-way, horse-way, or foot-way, or burglarily to break my house in the night. *Dal: 220. Cro. 27. Vide Lam. 249.* of one entring by force in the day, and killing in the dark.

To shoot at him that cometh to burn my house,
is justifiable in me or my servants. *Dal. ibid. Cro-
ibid.*

In defence of the possession of my goods, I may justify to beat him that wrongfully taketh them, but not kill him, except he be a thief. *Dak* 224.

To kill a true man, in defence of house, land, or goods, is manslaughter. *Dal. ibid. Cro. 20. b.*

Involuntarie homicide is by { misadventure,
{ necessitie.

By misadventure is, when a man doing a lawfull act, without any evil intent, killeth a man: this is not felonie of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods. *Dal. 216.*

A Schoolmaster, father, mother, or master, correcting moderately his scholar, childe, or servant; Shooting at pricks; butts, or lawfull mark; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawfull thing and giving warning.

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawfull act, without evil intent, is felonie, as shooting arrows, casting stones into high-ways or other place whither men usually resort. *Dal.* 217.

Fighting at Barriers, or running at Tilt without the Kings command.

Quere if playing at hand-sword, bucklers, football, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the yeare and day, be felonie of death, or may have their pardon of course. *Quere similiter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh, *Dal.* 218. if it be through the wilfull default of another, it is felonie.

The thing which causeth the death is a *Deodand*, and so forfeited to the King, *Dal.* 218. *Cro.*

31. a. The forfeiture hath relation from the stroke given
Deodands are not forfeited till the matter is found on record. *Dal.* 218.

The Jury which findeth the death of a man, must finde and apprise the *Deodand*. It becometh the town to see it forthcoming; for the Sheriffe shall be

be charged with the price, and shall levy the same on the Town. *Dal. ibid.*

If the slain be under 14 years of age, nothing is forfeited as a *deodand*. *Dal. 218.*

Homicide by necessitie is } Commanded,
Tolerated.

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but justice. *Dal. 219. Lamb. 234.*

If the officer doth not observe order of law, it is felony in the officer. *Dal. 219. Lamb. 24.*

One warranted to arrest one endited of felony, upon resistance killeth him. *Dal. 219. Ed. 3. 2. Lamb. 232.*

Every private person upon hue and cry to take a felon, if he resist and will not yeeld, may kill him.

Conducters of a felon to the Goal, upon resistance or fight may kill him. *Dal. 220.*

A prisoner in the Goal attempteth to escape, and striketh the Goaler, he killeth the prisoner; it is not felony. *ibid.*

Riotters, forcible enterers or detainers, that shall resist the Justice of Peace or other the Kings officers, and will not yeeld themselves, being slain, it is no felony. *Dal. 220. Cro. 23. 30. b. 158. Lamb. 215.*

If an officer, by vertue of the Kings proceffe, arresting one for debt or trespassse, is resisted, and killeth the resister, it hath been taken to be no felony. *Dal. 220. Cro. 24. 2. 30. b. Quere.*

In all these former cases there must be inevitable necessitie, that the offender could not be taken without killing. *Dal. 220.*

Horses

Any Iuftice may hear and take the claim of the owner of any horfe, &c. which was ftollen within fix moneths after the fale thereof, the proof to be made by two witneffes upon oath within two dayes next enfuing the faid claim. *Dal. 56. Lamb. 203. Elis. 12.*

The Iuftice of Peace may minifter an oath to the buyer what money he paid, *bonâ fide*, fo as the right owner repaying his money may have his horfe again. *Dal. ibid.*

Owner, officer, or ruler of any faire, is to appoint an open place for fale of horfes, &c. and a fufficient perfon to take toll, or lofe 40 ſhill. for every fault, and anfwer the party grieved. 2. 3. P. & M. *Lamb. 71.*

The fale of every horfe not being according to the ftatute in every point, is void. *Dal. 56. Lamb. 412.*

1 The horfe muſt be one houre at the leaſt in the place of the open faire.

2 All the parties to the bargain being in the faire, muſt come with the horfe to the book-keeper.

3 The book-keeper muſt take perfect knowledge of the ſeller and of the voucher, of the Chriſtian name, ſurname, myſterie, and place of dwelling.

4 The voucher muſt know the ſeller indeed, and declare to the book-keeper the Chriſtian name, ſurname, myſterie and dwelling, aſywell of himſelf, as of the ſeller.

5 The book-keeper muſt make a true and perfect entry of the ſellers name and place of dwelling, &c. and of the true price, forfeiture. 3. 1. *El. 12.*

Every contract for a ſtollen horſe out of the faire is void, though it be after booked. *Dal. ibid.*

A sale in open market shall not take away the owners propertie, the buyer knowing that it was anothers. *Dal. 56.*

All horses and all other goods are to be sold in such a place or shop as is commonly used for the selling of goods of the same kinde, to alter the propertie. *Dal. ibid.*

A thief selleth a stolen horse by a false name, and is so entred in the toll-book; such misnaming maketh the sale void against the owner. *Dal. 73. Edit. 1626.*

Horse-bread.

Inholder in a corporate or market Town, where there is a common baker that hath been an apprentice therein 7 yeares, may not make horse-bread within his house. 32. H. 8. 41. 21. *Jac. 21.*

Inholder or ostler in a through-fare town, being no city, town corporate, or market town, being a baker and one that hath been an apprentice therein 7 yeares, may make horse-bread within his house. 21. *Jac. 21.*

The horse-bread must be sufficient, lawfull, and of due Assize, according to the price of corn. 21. *Jac. 21.*

- | | | |
|---|--|------------|
| { | 1 Fine. | (out bayl. |
| | 2 Imprisonment for a moneth with- | |
| | 3 Stand in the pillory without redemption of money. | |
| | 4 Forejudged for keeping Inne again. 21. <i>Jac. 21.</i> | |

Vide Inneholder.

Hospitall.

The Bishop and Chancellour, with 2 Justices of Peace next inhabiting, may charge the collectors of a revenue of an Hospitall, upon a pain, presently to account and to imploy the surplusage to the use of an Hospitall. *L. 556. 14. Elis. Case 5. 39. Elis. 18.*

Hospitality, *vide* Religious house.

House.

1 A mans house is his castle for defence. *D. 177.*

2 It protecteth against any arrest at the suit of any subject. *ibid.*

3 In some cases it is a priviledge against the Kings Prerogative; for it hath been adjudged that Salt-peter men may not digge in a Mansion-house without the Kings consent. *ibid.*

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company & kill any of them, and forfeiteth nothing. *ib.*

He may beat him that will enter upon his possession, but may not kill him. *Quere* if he may hire strangers to aid him, or put his ordinary company in armour, *Dal. 177, 178.*

Vide plus Homicide.

House of Correction.

House of Correction with implements and backslides, fitting for setting on work idle persons; to be erected and provided in a convenient place in every county before Michael. 1611. the same to be conveyed over to such as by the greatest part of the Iustices at the Q. Sessions shall be chosen to be imployed for setting on work idle and disorderly persons, on pain of 5 pound for every Iustice of Peace, the one moytie to the informer, the other towards the erecting of the house. 7. *Jac. 4.*

Master of the said house to be appointed by most of the Iustices of the Q. Sessions, next after providing of the said house, who is to set on work and moderately to correct by whipping or fettering such persons as shall be sent to him. 7. *Jac. 4.*

Constables shall appeare before the Iustices of Peace twice in the yeare, and give account upon oath in writing, under the hand of the minister, what rogues have been apprehended, and how many punished. 7. *Jac. 4.*

Master of the house of correction giving sufficient securitie for performance and continuance of his service, is to have yearely such money as by most of the Iustices at Q. Sessions shall be thought meet, to be paid quarterly by the Treasurer, or els the master to levy it in such sort as the Treasurer may. 7. *Jac. 4.*

Constables not safely conveying to the house of correction such as by the Iustices of Peace at their meeting for the execution of the statute, 7. *Jac. 4.* shall be sent thither, to pay such fine under 40 shill. as by most of the Iustices shall be assessed. 7. *Jac. 4.*

A woman, having a bastard which may be chargeable to the parish, for the first offence to be sent to the house of correction one yeare, for the second offence to be sent to the house of correction, and to remain there till she finde sureties for the good behaviour, and not to offend so again. 7. *Jac. 4.*

Any able to work and threatening to runne away and leave their families upon the parish, upon oath of two witnesses before two Iustices of the said division, to put in sureties for discharge of the parish, or to be sent to the house of correction. 7. *Jac. 4.*

Master

Master of the house of correction quarterly at the Sessions must yeeld account of such as have been committed, or is to be fined by most of the Iustices. 7. *Jac.* 4.

If any committed become troublesome to the countrey by going abroad, or escape without lawfull delivery, the master is to be fined by most of the Iustices at the Q. Sessions. 7. *Jac.* 4.

All penalties not limited by the statute, 4. *Jac.* 4. shall be payd to the Treasurer and accounted by him. 7. *Jac.* 4.

Vide plus Poore people.

Hunting.

One Justice of Peace, upon information of any unlawfull hunting of Deere or Conyes by night, or with painted faces, or other disguising in forrest, park, or warren, may make warrant to the Sheriffe, Constable, Bayliffe, or other officer, to take the party suspected, and to bring him before him or some other Justice to examine him thereof: and if he conceal the hunting or any offender with him therein, the concealment is felony in the concealer, but the truth confessed is but fineable at the next Q. Sessions. 1. *H.* 7. 7. *Dal.* 57. *L.* 191.

To disobey such a warrant, or make rescous thereupon, is felony. 1. *H.* 7. 7. *Dal.* 57.

The Justice of Peace that taketh examination of the offender, may after the examination binde the offender to his good behaviour, to the end he be forthcoming till the offence and the offenders be lawfully examined. *Dal.* 57.

Unlawfull hunting by 3 or more will grow a riot. *Dal.* 57.

Any by night or day wrongfully entring into any inclosed ground, kept for keeping of Deer or Conyes, and there chafing or killing of them, upon conviction to be imprisoned 3 moneths without bayl, and there to continue till he pay treble damages and costs to be assessed by the Iustices before whom he is convicted, or pay to the party grieved 10 pound at the election of the party grieved, 7. *Jac.* 13. and finde sureties for his good behaviour 7 yeares. 3. *Jac.* 13. *Lamb.* 441.

The party grieved, or the Iustice of Peace, upon satisfaction of the party grieved, and confession of his offence, and that he is sory for the same, in open Sessions may release the offender of his bond for the good behaviour. 3. *Jac.* 13.

The statute 3. *Jac.* 13. doth not promise offenders in parks or inclosed grounds made after the statute, without the Kings license. 3. *Jac.* 13.

Enquiring, hearing and determining of offences against the statute 3. *Jac.* 13. may be made by the Iustices of Peace and Goal-delivery at the Sessions, and they may award proceffe upon enditements, informations, bills of complaint, or other actions wherein no esloin, &c. 3. *Jac.* 13.

Any not having lands of inheritance in his own or wives right, of the cleare yearly value of 10 po. or for term of life of 30 po. *per annum*, or goods to his own use worth 300 po. keeping Greyhound to course deer or hare, except the sonne of a knight or Baron of parliament, or sonne and heir of an Esquire, upon conviction by confession or oath of 2 witnesses before 2 I. of P. where the offence is, the party apprehended to be imprisoned 3 moneths without bayl, except he presently pay to the Churchwardens where the offence was committed

or party apprehended, 40 shill. to the use of the
poore of the said parish. 1. *Fac.* 27.

Any having lands in fee simple or fee tayl of a
100 po. *per annum*, finding any not having lands
of 40 po. *per annum*, nor worth 200 po. in goods,
to use any gun, bow, dogs, or engines for killing
of deer or hare, except parker or warrener, or
owners of either of them, or other grounds inclosed
for deer or conyes, that shall be yearly worth 40
shill. may take any their gunnes, bowes, engines
and dogges, and keep them to his own use. 3. *f.* 13.

Lay person not having lands *per annum*, spiri-
tuall person a benefice not above 10 po. *per annum*,
keeping dogs to hunt, or using ferrets, &c. shall be
imprisoned for a year. 13. *R. E.* 13. *Vide Parks.*

Hundred.

Hundred with the libertties therein to be equally
taxed by 2 Iustices of Peace, one to be of the *Quo-*
rum, in or near the hundred, for relief of those that
are robbed. 27. *Elis.* 13. *Dal.* 104, 236.

The robbed shall not have his action upon the
statute of 27. *Elis.* 13. except he first with all speed
convenient give notice of the robbery to some in-
habitant near the place where he was robbed.

2 Commence his suit within a year next after
such robbery committed.

3 He being examined upon his oath within 20
dayes next before such actions brought by one Iust.
where the robbery was committed, dwelling near to
the hundred, if he knew the robbers or any of them.

4 If he knew any of the robbers before such
action, he shall be bound before the said Iustice to
prosecute the offenders effectually by enditement,
or otherwise by course of law. *Dal.* 104.

The hundred must answer the losse, if the robbers be not taken within 40 dayes. *Dal.* 104. 256. *Cro.* 179. 3.

A man is slain out of a town, and the murderer doth escape, the hundred shall be charged there-with. 256.

Jurie of one hundred may present an offence done in another hundred. *Lam.* 399.

Hue and Crie.

For the apprehending of homicides, burglars, robbers, and other felons, hue and crie shall be made, and every man shall follow the hue and crie; and he that doth not, shall be attainted to appeare before the Justice of goal-deliverie. It seemeth any Justice of Peace may binde him over by the commission. *Dal.* 256. *Cro.* 179. b.

Hue and crie ought to be made from town to town, from countrey to countrey, by horse-men and foot-men, 13. *Ed.* 1. 12. 27. *El.* 13. *Dal.* 57. *Cro.* 178. b. 179. and upon committing of any robbery or felonie, the officer of the town where it was done, ought to send hue and crie to every town round about him. *Dal.* 57. *Cro.* 178. b.

Every Justice of Peace may cause hue and crie, fresh suit and search to be made upon any murder, robbery, theft, or other felonie committed, by force of the first assignavimus. *Dal.* 39. 57. *Lam.* 185.

By a false hue and crie to enter into any house with the Constable, to binde and robbe the Constable and master of the house in the night, is burglarie. *Lam.* 263. *Vide plus* Robberie.

Jesuites

Jesuites & Seminarie Priests. 121

ANy Justice of Peace within the Countie in which any Jesuites, Seminarie Priests, or other Priests, Deacons, religious or Ecclesiasticall person shall arrive or land, may within three dayes after take the submission, oath, and acknowledgement of him touching his obedience to the King and laws provided in cases of religion. 27. *El. 2. Lam.* 189. *Dal.* 80.

Every one understanding that any such Priest, &c. shall be within any of the Kings dominions, ought to discover the same to some Justice or other superior officer, within ten dayes after such knowledge, under the pain of fine and imprisonment, & the Justice within 28 dayes must give information thereof to one of the privie Councell, on pain of 200 marks. 27. *El. 2. Lam.* 198.

Two Justices of Peace of the countie where any of the Kings subjects that are no Jesuites, &c. brought up in any Colledge of Jesuites, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two dayes after their return take their submission under the oath of allegiance. 1. *El. 27. Sl. 2.*

To receive Jesuites or Seminarie Priests, contrary to the statute, is felonie. 27. *Elif. Lam.* 414.

Any within three dayes after the offence committed, discovering to any Justice of Peace any Recusant, Seminarie, or popish Priest, or any Masse to have been said, any of them then present there, and by reason of his discoverie any offender betaken and convicted, shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3. *Jac. 1. Lam.* 199. *Dal.* 81.

Impri-

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

Information.

Information against a felon, whether he shall be taken by oath or no, is uncertain: but *Lam.* 213, 214, 215. and *Dal.* 264. and *Cro.* 194. a. do best allow it by oath.

No proces can be awarded upon information of a private person, unlesse where the statute particularly warranteth enquire by information, as the statute of 5. *Elif.* 4. of labourers, 5. *Elif.* 21. of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace; so much thereof as is materiall he must put in writing within two dayes after the examination. *Dal.* 159. *Lam.* 212.

Two inform against another in matter of felonie, and do varie in their talks, viz. in the day and place when and where it was committed; such information is not to be credited. *Dal.* 26, *Cro.* 190.

The bringer of the suspected will not inform, it is meet to binde him over to give evidence. *Dal.* 262.

Form of a recognizance for the informer against a felon, *Lam.* 214, 216.

Informers, and Promoters.

Informer compounding for any offence against a penall law, without consent of some of the Court of Westminster, or willing the delaying or discontinu-

discontinuing a suit, loseth 40 pound, and is to stand in the pillorie being convict thereof at the Quarter Sessions. 18. *2 L. 5. 27. El. 10. Lam. 439, 609.*

Ingrosser.

Ingrosser is he that by any contract, unlesse by grant of land or tithe, buyeth corn on the ground or other dead victualls, to the intent to sell them again, except buyers of barley or oats, to make malt or oatmeal. Victuallers not forestalling, Badgers and Drovers not abusing their lawfull licence, buyers of forrein commodities, except fish & salt, are excepted. 5. *Ed. 6. 14. Elis. cap. 13. 13. Elis. 15. Lam. 451.*

Inneholder.

Inneholder taking any thing for litter, or excessively for hay, or above a half pemie a bushel above the market for oats, loseth foure times the value of the overplus. 13. *R. 1. 8. 4. H. 1. 25. Lam. 473. repealed. 7. Jac. 2. 1. Vide plus Horse-Bread.*

Inneholder or alehouse-keeper may be compelled by a Constable to lodge strangers. *Dal. 28. edit. 1626.*

Inneholder that suffereth a non-inhabitant to tripple in his house, shall incur the penaltie limited, 1. *Jac. 9. 1. cap. 4.*

Innekeeper, taverner, victualler, is within the statute, *Jac. 9. 4. Jac. 1. cap. 4.*

Inmates, *vide Cottages.*

Inrolment.

One Iustice of Peace may joyn with the Clerk of the Peace in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same Countie, 11. H. 7. 15. and is to have 12 pence if the land exceed not in value 10 shillings a yeare; and if it do, then 2 shill. 6 pence; and taking above, fined. 17. H. 8. 15. *Lam.* 196, 369, 393. 436.

Issues.

The Sheriffe that gathereth other estreats of issues then of right are due, forfeiteth 5 marks to the King, as much to the partie. 27. *Elif.* 7. *Lam.* 32. Forfeitures of issues by jurors are to be levied by Records of execution awarded by the Iustice of Peace. 27. *Elif.* 7. *Lam.* 585.

Judgement.

Ambiguities arising in judgement, the Iustice of Peace shall forbear to proceed till the Iudges come; but if they will proceed, the judgement is not void but must be reversed. *Lam.* 568.

Where the statute appointeth a punishment, there judgement must be according to the statute upon trespassse, riots, and such other offences: where no forfeiture is prescribed, judgement is to be taken and ransomed. *Lamb.* 510.

Vide also the severall offences.

Juglers, vide License.

Jurours.

Jurours both for enquirie and triall, ought to be *Probi & legates homines.* *Lam.* 396.

what

What persons may not be jurours, and being jurours make presentments void, unlesse there be twelve besides.

1 Attainted in conspiracie, 2 Attaint, 3 *De-
cises Quantum*, 4 Subornation of perjurie, 5 Con-
cealment, &c. and their presentment void, unlesse
there be twelve besides them that are not blemished,
Lam. 396. 6 Outlawed, 7 Abjured, 8 Con-
demned in a *Premunire*, 9 Attainted of treason,
10 Felonie, &c. *ibid.* 11 Women, 12 Infants
under 14 yeares of age, 13 Aliens, 14 Clergie-
men. *ibid.*

Jurours must be inhabitants or freeholders with-
in the Countie, to the value of 40 shillings *per an-
num*, but in Cities and Boroughs to the value of
40 shill. in goods. 369, 397.

Jurours for triall of an indictment within the
Countie Palatine of Lancaster must have 5 pound
per annum. ibid.

Jurour 70 yeares old or decrepit, returned by the
Sheriffe, must serve if the Iustice will; but he may
sue the Sheriffe upon the statute of *Westminster*, 2.
38. *Lam.* 397. if he be exempted by Charter. *Lam.*
ibid.

Jurour exempted by Charter with these words,
Licet tangat nos, is to be discharged upon his ap-
pearance, but he ought to shew it to the Sheriffe.
ibid.

When there is want of sufficient Jurours, no ex-
emption can discharge. *ibid.*

Presentment is good though some of the Jurours
be allyed to him that procureth the presentment: but
it is no discretion in the Iustice to suffer any such
to be impannelled. *Lam.* 398.

If the particular jurours for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantibus*, of other hundreds, then to be renewed with a *Tales* from Sessions to Sessions. *Lam.* 398.

Jurie of one hundred may present an offence done in another hundred. *Lam.* 399.

Iustices may command the Sheriffe to alter the pannell, and he refusing forfeiteth 10 pound. *ibid.* 3. H. 8. 12.

All the jurours must be sworn, otherwise their presentments are void: but the Record being that all the jurours were sworn, the presentments are good though all be not sworn. *Lam.* 399.

Jurour after he is sworn, upon cause may be removed by the Iustice. *Lam.* 400. 20. H. 6. 5.

Jurie after swearing adjourned to another time, may be then sworn again. *ibid.*

Jurours of enquirie must be 12, but there may be more, and it is best to have them odde. *Lam.* 400. *ibid.*

If 12 jurours do agree, the residue cannot gainsay. *ibid.*

Juries of enquirie ought not to be committed to a keeper, nor kept without victuals, nor carried out of the town, but may be adjourned to another place to give up their verdict. *Lam.* 400.

Jurours which do carefully conceal offences presentable, and which be complained of by bill, may be enquired of by persons whereof every one may dispend 40 shillings *per annum*; and such concealment being found within a yeare after, every jurour shall be amerced in open Sessions. 3. H. 7. 2. *Lam.* 400, 401.

Jurours that discover what they have done, are to be fined, *Lam.* 402.

Jurour

Jurour taking any thing to make a favourable presentment, shall be imprisoned and ransomed. *Lamb. 441. Cro. 84. a.*

No jurour to be returned without an addition whereby he may be known. *27. Elis. 7.*

Vide plus Challenge.

Justices of the Peace.

Justices of Peace were created *1. Ed. 6. 3. 16. Dal. 4. Lamb. 20.*

Justice of Peace is Justice of Record. *Dal. 415. Cro. 120. a. Lamb. 62.*

He may take a recognizance of Peace, which none can do but a Judge of Record. *Dal. 6. Lam. 186. Cro. 196.*

His warrant is not disputable by the Constable, *Dal. 6. Lam. 65. Cro. 147. b.* but it is to be understood when the Justice of Peace hath jurisdiction of the cause. *Dal. 6, 292. Cro. 147. b. Lam. 65, 91.*

His testimonie in some cases is of as great force, and in some cases greater then an indictment of 12 men upon oath, as in the cases of force, riots, presentments of high-ways. *Dal. 6. Lam. 65.*

The authoritie granted to Justice of Peace by commission doth determine by oath of the King, at the Kings pleasure. As to be discharged by writ under the great seal. 2 By *Supersedeas*. 3 By granting a new commission and knowledge thereof. *Dal. 8. Cro. 188. a. Lamb. 77.*

2 By publishing the new commission at Assizes or Sessions, or any countie court.

3 By holding open Sessions by vertue of the new commission. *Dal. 8. Cro. 188. a. Lam. 69.*

Exercising

128 Justices of the Peace.

Exercising the office of a Justice of Peace before oath taken, is fineable. *Dal.* 11, 304.

Justice of Peace hath not authority but in the countie where he is Justice. *Dal.* 21.

Justice of Peace is not to meddle with offences done out of the countie, *Dal.* 16. *Cro.* 120. b. except some statute enable him, or some matter of Peace or Felonie. *Dal.* 41.

Justice of Peace is not to intermeddle in any citie or corporation, which have their proper Justices. *Dal.* 21. *Cro.* 8. a. 181. b. 189. a.

Justices of Peace ought not to execute their offices in their own case. *Dal.* 304. *Cro.* 68. a. Yet a Justice of Peace being assauked, may commit the offender to prison. *Dal.* 128, 304. *Cro.* 68. a. *Lam.* 134.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his own possession, and commit the offender. *Cro.* 67. b. 68. a.

Justice of Peace chargeth one that maketh an assault or affray, to keep the Peace; who answereth, he will not; the Justice of Peace may binde him to his good behaviour. *Dal.* 162.

Justice of Peace must proceed by the prescript of the commission and statute. *Dal.* 18.

Where the statute referreth the triall, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath. *Dal.* 20, 121.

One Justice of Peace ought not to binde one to appeare at the Qu. Sessions to answer his fault committed against a penall law, except the statute of Labourers. *Lam.* 187.

Every Justice of Peace is a conservatour of rites within his countie. *Lam.* 18, 9.

Justice of Peace not giving remedie to the partie grieved

grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert. 4. *Hen. 7. 12. Lam. 330. Dal. 305.*

One Justice of Peace may command fresh suit, hue and cry, and search to be made by officers and others, after thefts, robberies, enjoin watches for the arresting of suspected persons and night-walkers, high-ways to be enlarged, that two Constables be chosen in every hundred, forbid faires and markets in Churchyards, command all between 15 and 60 to be sworn to the peace, charge the Constable to arrest all such as be suspected to be draw-latches. *Lam. 185.*

Justice of Peace taking bond in his own name, and not *anno Regis*, in a cause touching the King, is to be imprisoned. 33. *Hen. 8. 39.*

Justices of Peace at their Sessions are of equal authority. *Lam. 385. Vide Cro. 122. ann. 33.*

The authority of a Justice of Peace doth cease, 1 by the Kings death; 2 by the expresse will, viz. by writ under the great Seal, or *supersedeas*; 3 by being lost out of the commission; 4 by accession of another office, as being made Sheriffe, or Coroner of the countie. *Dal. 89. Cro. 121. ann. 314.*

Justice of Peace must send his prisoners to the common goal. *Lam. 133. Dal. 30. 125.*

A felon is brought before a Justice of Peace upon suspicion, though it appeare to the Justice he is not guiltie, yet he may not set him at libertie, but sh^t as he may come to his triall, *Dal. 260, 305, 242. Lam. 233. Cro. 40. b. 100. b.* otherwise it will prove a voluntarie escape in the Justice; for he is

not to be delivered by any mans discretion. *Dal. 8.*
Lam. ut supra.

A man is arrested for felonie by a Constable or other, who afterwards hath knowledge that there is no such felonie done, the opinion of Keble was that he might set him at libertie: but if one be killed, and another be arrested for suspicion, though after he know the arrested is guiltlesse, or was arrested for malice, he ought not to set him at libertie, but must be delivered by course of law, otherwise it is felonie. *Cro. 40.*

What things a Justice of Peace ought to do ex officio.

Record a demurrer upon the evidence. *Lam.*

539.

Give day to the partie to bring in a record that is before other Iustices, which is pleaded by way of justification. *Lam. 534.*

If thinking an enditement to be void, they have discharged the prisoner paying his fees; yet (upon change of their opinion) they may stay him any time before judgement. *Lam. 540.*

Iustices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it. *Lam. 540.*

In absence of the Kings Attorney, the Iustice of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam. 540.*

Iustice of Peace cannot acquit felons of proclamations; but if no prosecution be, they are to keep them till the coming of the Iustice of goal-delivery. *Lam. 550.*

Iustice

Justice of Peace may enquire of all manner of felonies at the common law, or given by any statute, and of all manner of trespasses done against the Peace of the King, and of such trespasser where in action of the case will lie for trespass or deceit; for in the end of the writ grounded upon the case is contained *contra pacem nostram*. *Cro. 8. 2.*

One J. of Peace rebukes another; neither he, nor any of his fellow Justices, can commit him, for all are by one authoritie: but if one Justice abuse another in open Sessions, it seemeth the rest may binde him to the Peace. *Cro. 102. 2. Fitz. 32. 92.*

Defaults against the statute 3. Hen. 6. c. 11. for levying of wages for Knights of the shire, are to be heard and determined by enquire for the King, or action for the partie before the Just. of Peace. *Lam. 512.*

Labourers and Servants.

One Justice of Peace may cause all artificers and other persons meet to labour, by his discretion, to work by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two dayes and one night. *5. Elis. 2. Dal. 59.*

The Constable refusing to stock them loseth 40 shill.

One Justice of Peace under his hand and seal may license labourers in hay and harvest time to go into another countrey to work. *Dal. 59.*

One Justice of Peace upon complaint may com-
pell meet persons to be bound as apprentices to

husbandry or any other art, &c. and for refusall commit them to ward; there to remain untill they be bound to serve according to the statute. *Dal. 33, 76.*

One Justice of Peace may take order betwix the master and apprentice, for want of conformitie in the master, binde him over to the Qu. Sessions, where foure Iustices, one being of the Quorum, may discharge the apprentice: and if fault be in the apprentice, inflict due correction; *Dal. 39.* but if the first Iustices finde fault in the apprentice, he may by *ex fac.* send him to the house of correction as an idle disorderly person. *Dal. 60.*

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his term. *Dal. 60.*

But an apprentice by 4 Iustices of Peace in open Sessions. *ibid.*

One Justice of Peace may command vagrant persons to prison if they will not serve. *Dal. 63.*

One Justice of Peace may make his warrant to attach a servant departing, to be at the Sessions, or may send him to the house of correction. *Dal. 77.*

Two Iustices of Peace, upon complaint that a servant departed before the end of his term (except a cause be allowed by one Justice of Peace, or at the end of his term, without one quarters warning before two witnesses, or 3 hath refused to serve for the wages appointed according to the statute; or 4 hath promised to serve accordingly, and doth not) may examine the matter, and may commit without bail such faultie person till he be bound to serve and continue, and then he is to be discharged without fee to the goaler. *Dal. 80. Lamb. 350.*

Labourers and Servants. 133

Two Justices of the Peace may imprison the master for 10 dayes without bayl, and the servant for 21 dayes, that giveth or taketh greater wages then are allowed by statute. *Dal. 61. Lamb. 330.*

All retainer, promise, or payment of wages for any other thing contrary to statute, and every writing and bond for the purpose is void. *Dal. 61. 4. Elis. 4.*

Two Justices of Peace may imprison for a yeare or more any servant, workman, or labourer, that doth make assault or affray upon his master, or any that hath the charge or oversight of them or of the work, being proved by the confession of the party, or oath of two. *Dal. 61.*

Or the Justices at the Sessions may inflict other punishment.

One Justice may binde the offender to the good behaviour, and so to the next Sessions. *Dal. 78. Edit. 1606. Lam. 330, 347.*

Two Justices may compell any woman of the age of 12 and under 40, being unmarried, to serve by the yeare, week or day, for such wages as they shall think meet, or commit her to ward till she be bound. *Dal. 61. Lamb. 330, 331.*

The retainer of any to serve in the arts of clothing, Wool-weaver, Tucker, Fuller, Cloth-worker, Sheerman, Dyer, Hosier, Taylor, Shoemaker, Tannier, Pewterer, Baker, Brewer, Glover, Culer, Smith, Farrier, Carrier, Sadler, Spunter, Turner, Bonnyer, Pletcher, Arrowhead-maker, Butcher, Cook or Miller for lesse then a yeare, is void. *4. Elis. 4. Lamb. 473.*

Any unmarried, or under thirty yeares and married, are compellable to serve in any of the

134 Labourers and Servants.

the said arts, or to be imprisoned untill they will serve, *5. Elis. 4.* upon request of any person using the said trades, except the person be lawfully retained with some other, or have 40 shill. *per annum* in lands, or 10 pound in goods, or some *farta* in tillage. *Dal. 60. Lamb. 473.*

'None retained in husbandry to depart at his time into any other limit without testimony, on pain of 20 dayes imprisonment, and to be whipped, if then he brings none; and receiver of such loseth 5 pound. *Lamb. 474. Dal. 64.*

Labourers not working so many houres as they ought, lose a peny an houre. *Lamb. 474.*

Servant falling sick, or *non potens corpore*, the master may not put him away, nor abate his wages. *Dal. 83.*

Any taking work by great, and departing unlawfully before the work be finished, loseth 3 po. and is to be imprisoned for a moneth. *Lamb. 474.*

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7 years, loseth 10 pound. *5. Elis. 4. 5. Lamb. 475.*

Servant departing into another shire, is indicted for it in the county whence he departed; the Justice of Peace may award a *Capias* to the Sheriffe of that shire wherunto he departed, returnable before themselves. *5. Elis. 4. Lamb. 515.*

The sufficiency of the cause of the masters putting away of his servant, or the servants departing from his master within his term, must be proved at the *Q. Sessions.* *Lamb. 610.*

Houhold servant spoileth the goods of his deceased master, and after proclamation in the Kings Bench maketh default of appearance there;

Labourers and Servants. 135

it is felony, but not enquirable by the Justice of Peace. 33. H. 6. 1. *Lamb.* 281, 548.

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void. *Dal.* 63.

Retainer of a servant in husbandry without expressing any term, shall be for one year, *Crom.* 184. *Dal.* 64. it is according to the statute, 5. *Elis.* 4.

One retaineth a servant for 40 dayes, and afterwards another retaineth him for a year; the first retainer is void. *Cro.* 184. a. *Dal.* 64.

A servant cannot be discharged by his master without his own agreement, or for some cause allowed by a Justice of Peace. *Dal.* 64.

An apprentice cannot be discharged by his master but by writing, for an apprentice cannot be but by writing. *Dal.* 64, 62. *Cro.* 184. b. 185. b.

A servant put away shall have his proportionall wages for the time he served, but it must be by the help of a Justice of Peace. *Dal.* 64.

A servant of his own accord departing from his service, loseth all his wages. *Dal.* 64.

A servant refusing to do his service, it is a departure in law, though he stay still with his master. *Dal.* 64.

Detaining of wages, or of meat and drink, is good cause of departure, but to be allowed by a Justice of Peace. *Dal.* 64, 65. *Cro.* 185. a.

A woman married after she is retained, must serve out her time. *Cro.* 184. b. *Dal.* 63.

No servant in husbandry, artificer, or victualler, nor any labourer, shall carry any buckler, dagger, or sword, on pain to forfeit the same, but for defence of the realm, or travelling with their master, or about their masters business. 12. R. 2. b. *Cro.* 185. b.

136 Labourers and Servants.

Any two Justices of Peace may give their consents with the Churchwardens and overseers, or to the greater part of them; to binde as apprentices the children of poore parents, till the age of the man-child of 24. and of the woman till 21. 39. *Elif. 3. Lamb. 331, 327. 43. Elif. 2. Dal. 63.*

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation. *Dal. 61.*

Retainer not being according to statute, is void, except it be by Indenture. *Dal. 81, 82.*

Retainer upon condition is good. *Dal. 82.*

Retainer without expressing in what office, is good. *Dal. 82.*

Retainer for life is good. *Dal. 82.*

Retainer for a yeare to serve when he shall be required, is not good. *Dal. 82.*

By retainer the servant is presently in service, though he come not into his masters service indeed. *Dal. 82.*

The executour (the master dying) must pay wages to the servant hired according to statute, not otherwise, except it be by Indenture. *Dal. 83.*

Larceny.

Larceny is the felonious and fraudulent taking another mans personall goods, removed from his body and person, without his will, to the end to steal them. *Lamb. 271. P. R. 129.*

Personall goods are { Wholly anothers } Dead,
 { His own, yet } Alive.
 { also a party in another, }

Dead

In their own nature chattels, as money, plate, household-stuffe, *Lam.* 273. wooll severed from the sheeps backs, to take the skinne and leave the bodie, the flesh of tame or wilde fowl or beast, 275. goods of the Church, parish, or of an unknown person, 276.

Once no chattels, and made chattels by the owner, as mowed corn, mowed hay, wood felled, apples gathered, &c. 273, 276.

Tame, as horses, beasts, sheep, swine, pullen. 273, 274.

Alive, { Art, {
Wilde, & made tame by { Restraint of
libertie.

A tame deer by common law. 275.
By art, { By statute a falcon, targelet, lanner,
as lannerer, lost without bringing it to the
Sheriffe to be proclaimed. 274.

By restraint of their libertie, as young pigeons, young herons, young hawks out of their nests, fish in a trunk, stew, or pond. 274.

Where he hath given a speciall propertie to another, as by bailment, pawning, &c. and feloniously taketh it again.

A mans {
own goods, { 277.
Where one coming lawfully to the possession, by lending altereth the propertie, as by melting of borrowed plate, and the lender taketh the metall feloniously. 277.

In what goods larcenie cannot be committed.

In goods of { Profit,
Pleasure.

Goods of { An owner: and they are { Reall,
profit, as {
where is { No owner, as treasure trove, wrecked,
strayed. *Lam.* 276.
Reall are { Distinct from the freehold, as char-
ter of land or award. *Lam.* 275.
Annexed to the freehold, as apples
on the tree, a tree growing, lead from a
house or from a Church. *Lam.* 276.

Personall, as wilde things using their wildenesse,
as pigeons flying, hawks not reclaimed, fishes in
the river, *Lam.* 274. *Dal.* 234. pheasants, partridges,
hares, conies, herons, swans, or deer that are a-
broad. *Lam.* 275.

Goods of pleasure, as dogs, apes, parrats, singing
birds, a diamond, rubie, or other stone not set in
gold or silver. *Lam.* 275.

Larcenie is { Grand larcenie,
{ Pettie larcenie.

Grand larcenie is, where the thing stollen is
above the value of 12 pence, and is punishable by
death. *Dal.* 229.

Pettie larcenie, if the thing stollen exceed not 12
pence, and is punishable by the discretion of the
Justice before whom he is arraigned, and forfeit-
eth his goods. *T. R.* 129. *Dal.* 229.

Divers pettie larcenies put in one enditement, and
above the value of 12 pence, are punishable by
death. *P. R.* 129. *Lam.* 273. *Dal.* 230. Di

Divers found guiltie of one larcenie above 12 pence, they all must die for it, for that felonie is severall in law, even as those others were severed in act. *Lam. 273. Dal. 230.*

What acts do amount to larcenie.

To carrie away the plate delivered to me in a tavern to drink in. *Dal. 259. Cro. 35. b. Lam. 278.*

To carrie those things one is hired to carrie, to another place then he was hired, and there to convert them to his own use. *Lam. 279. Dal. 230. Cro. 36. a.*

A servant not being an apprentice to go away with the goods of his master above 40 shill. which were in his custodie. *Lam. 279, 280. Dal. 231.*

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner. *Dal. 230. Lam. 279.*

He to whom the key of ones chamber doore is delivered, openeth the doore and taketh away the goods. *Lam. 279. Dal. 233.*

A servant receiving 20 pound in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, viz. money. *Dal. 252. Cro. 50. a. Lam. 281.*

A guest is harboured, who carrieth away his sheets out of his chamber with purpose to steal them, and is taken in the house. *Dal. 233. Cro. 35. a. Lam. 281.*

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40 shill. or converteth them to his own use. *Dal. 252. Cro. 50. a. Lam. 281.*

A carrier embezels part of the goods committed to his charge. *Dal. 231. Cro. 36. a.*

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof,

of, and goeth away therewith. *Dal.* 232. *Cro.* 50. a.

A servant taketh away or spoileth the goods of his deceased master; upon default of appearance in the Kings Bench after proclamation, it is felonie. 233. 33. H. 6. 1. *Lam.* 281.

Taking an horse feloniously, and apprehended before he get the horse out of the close. *Dal.* 233. *Lam.* 282.

The husband shall not be punished for these done by his wife, he riot knowing thereof, or if after knowledge he presently forsake her and his house. *Lam.* 282.

What acts do not amount to larcenie.

One having goods bailed unto him, converteth them to his own use.

A carrier conveyeth the goods to another place then he was hired, and there converteth them to his own use. *Lam.* 278. *Dal.* 231. *Cro.* 36. a.

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money. *Dal.* 232. *Cro.* 39. h. 50. a. *Lam.* 280.

A wife stealeth goods in the companie of her husband, or by his command; *quere* if it be without his compulsion, *Lam.* 282.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larcenie in neither. *Lam.* 282. *Dal.* 237.

Goods stollen by an infant under 12, a lunatick during his lunacie, a mad man, and deaf and dumb. 32. *Dal.* 237. *Lam.* 282.

Riding

Riding away with a lent horse. *Dal.* 231.

A clothier delivereth wool or yarn to his work-folke, who imbezell or sell part thereof. *Dal.*

231. Goods delivered to another to keep, and he consumeth them, or converteth them to his own use.

Dal. 231. *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver stealeth away with them, or converts them to his own use. *Dal.*

231.

A servant hath a horse delivered by his master to ride to market, or money to go to a fair to buy cattle or other, or to pay to another man, and the servant goeth away therewith; *quare* if it be felonie by statute, *Dal.* 232.

A receiver receiveth his masters rents, and goeth away with them. *Dal.* 232. *Cro.* 50. a.

Leather.

Butcher that gasheth, slaughtereth, or cutteth the hide of the ox, steer, bull or cow, whereby it is impaired, loseth 20 pence; or that watereth any hide except in June, July, or August, or putteth to sale any putrified or rotten hide, loseth for every hide 4 pence. 1. *Jac.* 22. *Lam.* 461.

Butcher using the said craft and also the myste-rie of tanner, loseth every day 6 shillings 8 pence. *ibid.*

Tanner using also the myste-rie of a shoemaker, currier, butcher, or any artificer using the cutting or working of leather, loseth the hides and skinner tanned. *ibid.*

Every person, other then such as had a canno-
house

house 29 Martii 1603. and did then occupie tanning of leather, or hath been taught as an apprentice or hired servant 7 yeares in that mysterie, or hath been wife or sonne of a tanner brought up in this mysterie 4 yeares, or the sonne or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tannehouse and fats, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him. *Lam.* 462, 463. 1. *Jac.* 22.

None may buy, contract for, or bespeak any rough hides or calves skinner, but onely tanners or tawers of leather, except sole hides for the necessarie use of ships, on pain of 6 shill. 8 pence for every hide. 1. *Jac.* 22. *Lam.* 463.

None shall forestall any hides coming to fair or market, (except of such as kill for the provision of their house) on pain of 6 shill. 8 pence for every hide. 1. *Jac.* 22.

None may buy tanned leather nor wrought, but such as will convert the same into made wares, (except nets, and shreds of saddles and girdles) upon losse of all the leather. *Lam.* 463. 1. *Jac.* 22.

Tanner suffering any hide to lie in the tannelimes till the same be over-limed, or that putteth any hides into the tanne-fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oak-bark, Tapwert, Malt, Meal, Lime, Culver dung, or Henne dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sunne, or hath tanned any rotten hides, or hath not suffered the hides for outward sole leather to lie in the woozes twelve moneths, and for the upper sole leather 9 moneths,

moneths, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sale any tanned leather not wrought according to the statute. 1. *Jac.*

22. *Lam.* 463, 464.

Tanner that raiseth with any mixtures any hides to be converted to backs bend-leather, clouting leather, or any other sole leather, except the same be fit and sufficient for that use, loseth the hides. 1. *Jac.* 22. *Lam.* 464.

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red and unwrought, being in open faire and market, unlesse it be searched & sealed in some open faire or market, or putteth to sale any leather not searched and sealed according to the statute, loseth for every hide or piece of leather 6 shillings 8 pence, and for every 12 calves skinnnes or sheep skinnnes 3 shillings 4 pence, and also the hides and skinnnes or their value. 1. *Jac.* 22. *Lamb.* 464.

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dryed, and the same so found by the tryers appointed, 1. *Jac.* 22. loseth so much as is insufficient. *Lamb.* 464.

He that setteth his fats in tanne-hills, or other places where the woozes or leather to be tanned in the same may take any unkinde heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth 10 pound, and is to stand in the pillorie three market dayes. *Jac.* 22. *Lamb.* 464.

Felling oaks meet to be barked where bark is worth

worth timber for necessarie buildings, and reparations of ships, houses, or mills excepted, but between the first of Aprill and the last of June, loseth every tree or double the value: 1. *Jac. 22. Lam.* 464, 465.

Currier that currieth any leather but in his own house situate in a corporate or market town, or hath curried any leather not well tanned, or not thoroughly dried after his wet season, or hath used in such wet season any deceitfull means to corrupt the same, or hath curried any outward sole leather with any other stufte then hard tallow, or lesse of that then the leather will receive, or inner sole leather or upper leather but with good stufte being fresh and not salt, or hath not liquored them thoroughly, or hath scalded or shaven too thinne, or gasat in shaving or otherwise, or not wrought sufficiently any leather, loseth 6 shillings 8 pence, and the value of every skinnne marred, except gashing in shaving, and for such gashing double as much as the leather is impaired: 1. *Jac. 22. Lamb.* 465.

Currier that during the time that he useth currying, useth the seat of a tanner, cordwainer, shoemaker, butcher, or other artificer using cutting of leather, loseth 6 shill. 8 pence each hide. *ibid.*

Currier refusing to currie within 8 dayes in summer and 16 dayes in winter perfectly any leather brought by any cutter of leather, or his servant, bringing with him good stufte for perfect liquoring of the same, loseth 10 shillings for every hide.

Shoemaker that maketh any boots, shoes, buskins, startups, slippers, or pantofles, or any part of them of English leather wet curried, (other then

then deere, calves, or goats skins dressed like Spanish leather) but of leather well tanned and curried, or well tanned onely, and well sewed with thread well twisted, waxed, and rofined, with the stiches hard drawn with hand leathers, without mixing hear and calves leather in the over leather thereof; or hath put into any shoes, boots, &c. any leather made of sheep-skinnes, bull-hide, or horse-hide, or into the upper leather of any shoes, slippers, or pantofoles, or into the nether part of boots (the inner part of the shoes onely excepted) any part of the wombe, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other then the best of the ox or steer hide; or into the inner sole other then the necks, wombe, pole; or cheek; or in the soles of the double soled shoes other then the flanks of any the said hides; or hath put to sale any yeare between the last of September and the twentieth of April any shoes, boots, &c. meet for any person above foure yeares old; wherein hath been any dry English leather, other then calves or goats skinnes dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3 shillings 4 pence for every pair, and the just value. 1. *Jac. cap. 22. Lam. 465, 466.*

Every lord of faire or market, that doth not appoint two or three honest and skilfull men to be searchers and sealers of leather there, and six honest and expert men to try the same leather, loseth 40 pound. *Lam. 466.* Such triers as do not their duties therein without delay, lose 5 pound for every default. *Lam. 467.*

Searcher or sealer so appointed, refusing with speed to seal good leather, or allowing insufficient leather, loseth 40 shillings; or receiving any bribe

146 Leets. Liberties. Libellers.

or exacting any undue fee for execution of his office, loseth for every offence 20 pound; or refusing to execute the said office being duely elected, loseth 10 pound. *Lam.* 467.

He that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red & unwrought, without registering the same and the price thereof, loseth the value of the leather. *Lam.* 467. 1. *Jac.* 22.

Leets.

Steward of a leet cannot grant suretie of the Peace, unlesse it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office. *Lam.* 14.

He may also take presentment of an offence against the Peace. *ibid.*

Lent, *vide* Fish-dayes.

Liberties and Franchises.

Justice of Peace may execute his authoritie within any liberties, not being a countie within it self, and it is good, but the libertie may have their remedie against him. *Lam.* 47, 48. *Dal.* 21. *Cr.* 8. a. 181. b. 189. a.

Libellers.

A man finding a libel against a private man, must presently burn it, or deliver it to some Magistrate. *Dal.* 189, 190. *edit.* 1626.

If

If against a Magistrate or publick person, to deliver it to some magistrate, that by examination the authour may be found out. *Dal.* 190. *edit.* 1626.

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the Peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrels and effusion of blood, and speciall occasions to the breach of the Peace. *Dal.* *ibid.*

Libelling is by scandalous writings, by book, ballad, epigram, or ryme; 2. by scandalous words, as scoffes, jests, taunts, or songs; 3. by hanging up of pictures or signes of reproach, neare the place where the partie traduced doth converse most, as gallows, cucking-stool, pillorie, horns, or such like. *Dal.* 189. *edit.* 1626. *Cook* 5. *fol.* 125.

Licenses.

Two Iustices of the Peace may license poore diseased persons to travell to the Baths for remedie of their grief, so as they be provided of relief for their travell, and beg not. 39. *Elif.* 4. *Dal.* 77. *Lam.* 332. 1. *Jac.* 25.

Iustice of Peace dwelling neare where any person suffered shipwrack shall land, may and ought to make a testimoniall under his hand to such persons of the landing, &c. and thereby to license them to passe the next direct way to their place of birth or dwelling, and limit them a convenient time for their passage. *Dal.* 78, 100. *Lam.* 303. 35. *Elif.* 4. 17. 1. *Jac.* 25.

No Iustice or Iustices of Peace (as it seemeth) can in any case license any poore man to

wander, or beg at all. *Rev.* 78, 100. *Lamb.* 303.
35. *Elif.* 4. 17.

Convicted for ~~stealing~~ of a license of transportation of victuall ~~shall~~ be committed for a yeare without bail or mainprise. *Lam.* 349.

Licenses for badgers, drovers, &c. are to be granted in open Qu. Sessions. 5. *Elif.* 12. *Lam.* 610.

Linen cloth.

He that causeth to be used any racking, beating, or casting any deceitfull liquor, or other means on any kinde of linen cloth, whereby it becometh deceitfull, or the worse for use, forfeiteth such cloth, and is to have imprisonment for a moneth at the least, and to be fined according to the Iustices discretion. 1. *Elif.* 12. *Cro.* 90. 2.

Lying in a way, *vide* Way-lying.

Acts made 16. *R.* 2. & 20. *R.* 2. & 1. *Hen.* 4. & 7. *H.* 4. & 8. *Hen.* 6. & *Hen.* 8. are repealed. 3. *Car.* 4.

Log-wood, *alias* Blockwood.

Suspected to have offended against the statute for logwood, upon information to a Iustice of Peace, the suspect or his servant or workman may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examiners shall be bound over to the next goal-deliverie or Qu. Sessions, and there be judged to forfeit 20 pounds, and pillorie one or more market dayes, or upon refusall to be bound to be committed to the goal till he will be bound. 39. *Elif.* 11. *Lam.* 613. *Dial.* 38.

Any

Any two Iustices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned. 23. *Elif. 9. Dal. 38. Cro. 198. b.*

Masons.

THe causing of masons to congregate themselves in chapters, is felonie. *Lam. 227. 3. Hen. 6. 1. Mainprise, vide Baylment.*

Maintainers and Embracers.

Maintainers and embracers of a Iurie enquiring of a riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Iustice. 19. *Hen. 7. 13.*

The Iustices shall sit upon the inquisition of riots with the Sheriffe or under-sheriffe, and ought to certify the names of the maintainers and embracers of a Iurie, with their misdemeanours which they know, by which the truth of the said riot is not found, upon pain of 20 pound for every one that hath not a reasonable excuse. 19. *Hen. 7. 13. Cro. 199. b.*

Maintainers of quarrels and embracers of Iurours are to be imprisoned, and bound to the good abearing. 33. *Hen. 8. 10. 37. Hen. 8. 7. 38. E. 3. 13. Lam. 440.*

Maintenance is where any man giveth or delivereth to another that is plaintiff or defendant in any action, any thing to maintain his plea, or else maketh extream labour for him where he hath nothing to do therewith. K 3 Em

Embracer is he that when a matter is in triall between partie & partie, cometh to the barre with one of the parties, having received some reward so to do, and speaketh in the case, privily labourerth the Iurie, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter: but men learned in the law may speak in the case of their clients. *Terms of the law.*

Maim.

He that hath maimed another of any member, whereby he is lesse able to fight, as if a bone be taken out of the head, or a bone broken in any part of the bodie, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made shrink, or other member or the fingers made crooked, or if an eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans bodie, by means whereof he is made the lesse fit to defend himself, or offend his enemy, he and his accessaries shall be grievously fined. *Lam. 429.*

Iustices of Peace cannot upon an enditement of maim, make the triall by their own view and inspection, as the J. of the Kings Bench may do. *Lam. 532, 414, 10.*

If Iustices of Peace stand in doubt whether the hurt be a maim or not, they may use the help and opinion of some skilfull Chirurgeon to consider thereof.

Malt.

If any Bailiffe or Constable of any borough or other town shall finde any malt made contrary

trary to the statute, 2. & 3. E. 6. 16. & 27. *Elif.* 14. then with the advice of any Iustice of the Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices under the common price of the market, as to their discretion shall seem convenient. *Lam.* 202. *Dal.* 65. 21. *Jac.* 28.

Any two Iustices of the Peace may duely convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions, and shall commit him to prison without bail or mainprise for three dayes, untill he become bound in fourtie pound to perform such restraint. 39. *Elif.* 16. *Lam.* 332, 202. *Dal.* 65.

The Justices of Peace or the greater part of them, may in open Qu. Sessions restrain the converting of barley into malt. 39. *Elif.* 16. *Lam.* 613.

Malt must be 3 weeks in the fat, on the floore steeping and drying, except in June, July, August, and then 17 dayes, or lose 20 pence for every quarter. *Lam.* 451. *Dalt.* 85.

No insufficient malt mingled with good malt must be put to sale. 2. & 3. E. 6. 16. & 17. *Elif.* *Lam.* 452. *Dal.* 85. edit. 1626.

No malt shall be put to sale that is insufficiently troden, and out of which for every quarter hath not been fanned one peck of dust. *ibid.*

Man slaughter, *vide* Homicide.

Mariner.

Mariner coming from beyond the seas, or a seafaring man having suffered shipwreck, and in want, may be licensed by the next Justice of Peace to his landing, to ask relief in his journey homewards. 39. *Elif.* 4. *Lam.* 303. *Dal.* 109.

154 Mariner.
No fifter-man to be taken for a mariner by the Kings commission, unlesse chosen by the two next Justices to the place where he is to be taken. *5. Elis. 3. Lamb. 359. Dal. 66.*

Mariner departing from his Captain, without license, or wandring idly without, or with a forged license, knowing thereof, is a felon. *39. Elis. 17. Lamb. 227.*

Any poore Mariner or Souldier coming from beyond the seas, that shall repair to his place of birth, &c. and cannot there get work, two Justices of the Peace next adjoyning may take order to set him to work, and for want of work tax the whole hundred for his relief till sufficient work may be had. *39. Elis. 17. Dal. 109. Lamb. 359.*

Market overt.

He that is owner, &c. of any faire or market where horses, geldings, mares, or foales are to be sold, and doth not yearly assigne one open place where the said horses, &c. shall be sold, and one to take Toll, who shall continue there from 10 in the morning untill sunne set, forfeyth 40 shill. for every day. *2. & 3. P. & M. 7. 170. 91. 2. Lam. 431.*

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kinde. *Dal. 56.*

Sale in faire or market doth not take away the owners propertie, the buyer knowing that it was anothers. *Dal. 56.*

Marriage.

If any married person marieth another, the former wife or husband being alive, except the husband or wife have been beyond the seas seven yeares together, or hath been absent within the Kings dominions 7 yeares together, the one not knowing the other to be alive, or was at such marriage lawfully divorced to be void, or was had within yeares of consent, it is felony, 1. *Jac.* 11. *Lam.* 421. *Dal.* 243. *Cro.* 52. 2. without corruption of blood, losse of dower, or disinheriting any heire.

Masse.

To sing Masse, forfeyth 100 marks and 2 yeares imprisonment. To heare it, forfeyth 100 marks and like imprisonment. 23. *El.* 1. *Lam.* 413.

For the discovery of any who hath been at Masse, *vide* Jesuites.

Master, *vide* Servant.

Measure, *vide* Weight.

Messages false.

Two J. of P. one being of the *Quorum*, may (as it seemeth) binde over to the next Q. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such or bayl them to the next Q. Sessions. *Dal.* 37. 33. *H.* 8. *Vide plus* Cozenage.

Milch Kine, *vide* Calves.

Minstrells, *vide* Rogues.

Misprision.

Misprision is properly, where one knoweth that another

another hath committed treason, or felony, but was not consenting thereto, and will not discover the offender to the King or his Councell, or to some magistrate, but conceals the offence. *Dal. 203. Stam. 37. Term of Law, 131.*

A Chaplain fixed an old seal to a new Patent of non-residencie, it was holden misprision of Treason. *Term of Law, ibid.*

Knowing money to be counterfeit, and bringing it out of Ireland into England and uttering it in payment, is misprision of Treason. *Term of Law, ibid. Cro. stat. 38.*

For misprision of felony he shall onely be fined. *Dal. 203. Term of Law, ibid. Cro. 44. a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement. *Dal. 203.*

To strike a Juror in presence of the Justice sitting in place of judgement. *Dal. 203.*

To strike one in Westminster-Hall, any of the Kings Courts sitting. *Dal. 203.*

In which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason.

Rescuing one arrested by a Justice upon an affray sitting in place of justice, whereby he escapeth. *Dal. 203.*

~ For offenders in high treason, misprision of treason, *Premunire*, though I. of P. cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning

joyning with some other Iustice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing materiall, and put it in writing under the hands of the informers, and commit the offenders to Goal, and binde over those which finde any thing materiall to appear before the Lords of the Councell, or elsewhere to give evidence upon reasonable warning, and to certifie other doings to some of the Lords of the Councell or elsewhere.

Dal 7, 203, 204.

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to do any of them, or doth not within 20 dayes disclose it to some Iustice of the Peace, or higher officer, it is misprision of treason. 23. *Elis*. 1. *Lamb*. 412.

Within 6 weeks after any Bull or other instrument of reconciliation hath been offered, not to reveal it to some of the privie Councell or Presidents of the North, or Wales, is misprision of treason. 23. *El*. 1. *Lamb*. 413.

Misprision of Felony.

He that seeth one killed by another, or robbed, or any other felony committed, and is not of their confederacie, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceal the same, it is misprision of felony, and fineable.

Dal. 244, 250.

A man foreknoweth of a felony to be done, and

and concealeth it, and it is effected; it is misprision of felony. *Dal.* 251. *Cro.* 41. b. nu. 5.

Mitigation of fines and forfeitures, *vide Lambert.* 577.

Mittimus.

Mittimus must contain the names of the parties, their offences, and time of imprisonment. *Lamb.* 297. *Dal.* 272. *Cro.* 153. 2.

If one be committed without bayl or mainprise, the cause is expressed in the *Mittimus*, and yet is baylable, other Justices of the Peace may binde him: yet *Quere*, saith *Dal.* 172. seeing their authoritie is equall.

The form of the *Mittimus*.

To send felons to the Goal, *La.* 220. *Dal.* 339.

To send riotters to the Goal, *Lamb.* 321.

To send shooters in pieces, *Lamb.* 297. *Dal.* 243.

To send upon forcible entry, &c. *Lamb.* 150.

To send to the house of Correction, *Dal.* 341, 342.

To send an alefeller without license, *Dal.* 340.

To send a reputed father of a bastard, *Dal.* 340.

Monasteries, *vide* Religious houses.

Mortuaries.

Spiritual person not to take mortuaries or any thing for them, where they have not been used to be payed, or where the goods of the dead

dead are under 10 marks, taking above 4 sh. 4 pence where the goods are under 30 pound, or above 6 shill. 8 pence where they are above 30 pound and under 40 pound, or above 10 shill. where they are above 40 pound, he shall forfeit all taken above his due, and 40 shill. to the partie grieved, 21. H. 8. 6. *Lam.* 435, 436.

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felonie. 5. H. 4. 4. *Lam.* 227, 425.

Murder.

Murder is when one man upon malice pretended, premeditated, or precedent, doth kill another feloniously that liveth within the realm, or under the protection of the King, whether it be openly or privately, and whether the partie slain be English or alien. *Lam.* 237. *Dal.* 208. *Cro.* 21. 2.

The killing shall have relation to the death and not to the stroke. *Cro.* 21. *Cook*, part 4. 42.

Malice is { Expressed, { *Cro.* 21. *Dal.* 209.
 { or
 { Implied. { *Lam.* 239.

Malice expressed is when it is known that there is malice betwixt them, *Cro.* 21. and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal.* 209.

Malice implied is when one is killed suddenly without defence. *Cro.* 21. *Dal.* 209.

As where one killeth another without provocation. *Lam.* 239. *Dal.* 209.

One busied, as reading, going over a stile, &c. killed. *Dal.* 209. *Cro.* 23. b. 27. a.

One

One stabbed, not having weapon drawn. 1.
Jac. 4.

To kill an officer known in executing proceffe.
Dal. ibid.

To kill an unknown officer if he shew his warrant, and if an officer hath the Kings writ or lawfull warrant, though it be erroneous, and slain in executing it, is murder. *Dal. 209. Lam. 240.*

To kill any magistrate or minister of justice in executing his office, or in keeping the Peace. *Dal. 209, 210. Cro. 25. b.*

A rioter killeth an officer or an assistant coming to suppress a riot, *Dal. 210. Cro. 23. b.* it is murder in all the rioters.

A constable parting an affray, or any of his company coming to aid him, although it was suddenly and in the night. *Dal. 210. Cro. 25. a.*

A thief killing a true man in resisting, is murder of malice prepensed. *Dal. 210. Cro. 21. a. Lam. 241.*

1 A man carried his sick father into the frost, whereby he died. *Dal. 210. Lam. 240.*

2 An harlot hid her childe and covered it with leaves, and a Kite strook it and killed it. *Dal. 210. Lam. 240.*

3 The owner knoweth his beast to be accustomed to hurt and doth not tie him up, and after the beast killed a man. *Lam. 239.*

In these three cases *voluntas reputabitur pro facto*, for it sheweth that they had a will to hurt, and the will doth amount to malice, *Dal. 210.* and so to murder.

One having malice against another assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder. *Lam. 239.*

One

One condemned to die is killed by a private person without warrant, or by the officer contrary to the judgement; it is murder. *Lam.* 240.

Prisoner killed by his goaler by over hard keeping, it is murder.

One commandeth his servant to beat a man, who beateth him so that he dieth thereof; it is murder in the commander, *Dal.* 212. murder in both, *Lam.* 24. if it be in the commanders presence.

Many come to do an unlawfull act, and one in doing thereof killeth a man; it is murder in all, although they did but look on. *Dal.* 212, 249. *Cro.* 22. a. 24. b. *Lam.* 241. *Stam.* 40. If they be not present, yet if they be in the same house or upon the same ground, it is murder in all. *Dal.* 212. *Cro.* 25. a. *Lam.* 241.

All present and aiding, abetting or comforting another to do murder, are principalls. *Dal.* 171. 213, 249. *Cro.* 22. a. *Lam.* 243.

Two appoint the field and meet, and bring companie with them, and one of them is slain; it is murder in all that came. *Dal.* 213.

Murder is intended to one, and he killeth another; it is murder. *Lam.* 243. *Dal.* 212.

A woundeth *B* in fight, and after they meet suddenly and fight; if *B* kill *A*, it is murder, for it is intended malice upon the former hurt; but if *A* kill *B*, it is but manslaughter, for the hurt did appease his former malice. *Dal.* 211. *Lam.* 251, 238.

Two in suit meet and quarrell, and the defendant killeth the plaintiffe; *quere* if it be murder, *Dal.* 211.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both. *Dal.* 212. *Lam.* 242.

The

The owner rebuked one stealing his pearb, who killed the owner; it was adjudged murder, *Dal.* 211. *Cro.* 24. a. *Lam.* 241.

Poisoning of another wilfully whereby he dieth, is and was murder by the common law; *Dal.* 211.

The partie poisoned must die within a yeare and a day after receiving of the poison. *Dal.* 213.

After the beating or hurting another, to make murder, or other homicide, the yeare and the day is reckoned from the stroke given. *Dal.* 213. *Cro.* 25. b.

An appeal hath relation to the death. *ibid.*

A woman delivered of a bastard, endeavouring privately either by drowning or by secret burying to conceal the death thereof, as that it may not come to light, whether it were born alive or dead, but be concealed, shall suffer death as in case of murder, except she make proof by one witnesse that the childe was born dead.

Justices of Peace may take Enditelements of murder as of murder. *Lam.* 493.

Musters.

Convicted before the Justice of Peace for offence against the statute of musters, shall be imprisoned 10 dayes without bail, unless he pay the forfeiture being 40 shill. which is for absence without reasonable excuse, or not shewing his best furniture being commanded. 4 & 5 P. & M. 3. *Lam.* 349, 481.

The partie that sueth upon the statute of musters, is to recover the forfeiture belonging unto him by action, or bill of debt. *ibid.* *Lam.* 583.

Robert Laro

lie booke 1648

Name,

The names and surnames of the parties indicted must be certainly expressed; and if the indictment be of an accessarie in felonie, the name of the principall must be set down also. *Lam.* 488.

Nets, *vide* Hunting, Partridges and Pheasants.

News.

Contriver, speaker, or teller of false or counterfeit news, whereof discord, &c. may arise betwixt the King and his Nobles, or any other false news; lies, or other false things of Prelates, Dukes, Earls, and Barons, &c. whereof discord and slander may arise within the Realm, shall be imprisoned till he finde out the authour; and if he cannot finde him, shall be punished by the advice of the Council: *west. 1. E. 3. 4. 2. R. 2. 5. 12. R. 2. 11. 1. & 2. T. & M. 3.*

Next Justice.

Where the 13 *H.* willeth the Justice of Peace most nigh in every Countie, where such riot or tour shall be, to do execution of the statute under pain of 100 pound, if any other Justice that be not next unto the place shall execute the statute, it will excuse the next, because all have power alike; by the first part of the *Stat. Lam.* 326, 327. *Dal.* 8: 6. *P. R.* 30.

Night-walkers, *vide* Watches.

Noble Personages.

A Noblemans promise to keep the Peace, hath been held sufficient. *Dal.* 31. *Lam.* 81, 82.

A Iustice of Peace may not grant warrant of the Peace against a Lord of the Parliament, *Dal.* 132.

Nor against a Dutchesse, Countesse, or Baronesse; for they are Peers of the Realm, and shall be tryed by their Peers, and have the same priviledges that Dukes, Earls, and Barons have. *Dal.* 132, 133.

Dutchesse, Countesse, or any noble by birth, marrieth with a gentleman, she loseth not her name of dignitie. *Cro.* 110. a. *Dal.* 133. *Quere, Vide* Clergie, that a Nobleman may have his Clergie for any felonie except wilfull murder and poysoning.

Non sanæ memoriæ.

There be 3 sorts of persons *Non sanæ memoriæ*, or *non compotes mentis*.

- 1 A naturall fool who is so from his birth.
- 2 He that was once of sound memory, and after by sicknesse, hurt, or other accident or visitation of God loseth it.
- 3 A lunaticke, *qui gaudet lucidis intervallis*, and sometimes is of good understanding, and sometimes is not *compos mentis*.

Nusans.

Every man may in a peaceable manner assemble meet company to do any lawfull thing, or to remove or cast down any common nusans. *Dalt.* 194. *Cro.* 66. a.

Obedience

Obedience to the King. 163

IF any practise to absolve, perswade, or withdraw any from their naturall obedience to the King, or (for that intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome, or other estate, or if any have been willingly so absolved, or have promised such obedience, it is treason. 23. *Elis.* 1. *Lam.* 412. *Cro.* 18. a.

Colore officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a vail to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*. *Cro.* 57. b.

Ordinarie.

His Fees, *vide* Fees.

The Ordinarie oweth not his attendance at the Sessions of the Peace, as he doth at the goal-deliverie. *Lam.* 395, 396.

Oath.

You shall swear that the suretie of the Peace, which you require against *A B*, is not of any malicious intent, for vexation, but for very fear, and for the needfull preservation of your body and goods in safetie; so help you God. *Lam.* 83.

Oath of the Iustice of Peace, *vide Dal.* 10.

Oath of Supremacie, *Dal.* 11.

L. 2

Oath

Oath of allegiance, *Dal.* 12. 3. *Jac.* 4. 7. *Jac.* 6.

The *Custos Rotulorum* or any two Justices of the Peace, one being of the Quorum, may take the oathes of Under-sheriffes of their Countie, their Bailiffes, Deputies, Clerks, or under-officers, before they shall exercise their said offices. *Dal.* 108.

Quere if Iustices of the Peace may examine upon oath sureties of their sufficiency, *Dal.* 142. Iustices of Peace in their Sessions may do it. *Cro.* 194. 2.

Default of Under-sheriffes, their Clerks, Bayliffes, &c. in not taking their oathes for execution of their office, is to be heard and determined at the Quarter Sessions. 27. *Elis.* 12. *Lam.* 615.

Under-sheriffes, Bayliffes, &c. doing any thing contrary to their oathes, lose to the partie grieved treble damages. 27. *Elis.* 12. *Lam.* 433.

Where the refuser of the oath of allegiance shall incur a *Premunire*, *vide Premunire*.

Refuser of the oath of allegiance is disabled to execute any place of judicature or office, being no office of inheritance or ministeriall function, or practise of the law Civill or Common, or the science of Physick, Surgerie, or the art of Apothecarie, or any liberall science. 7. *Jac.* 6.

One Iustice of Peace to whom complaint is made, may commit to the goal without bayl till the next Assizes, goal-deliverie, or Quart. Sessions, any above the age of 18 yeares (under a Baron or Baronesse) which stand presented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Minister, peticie Constable, and Churchwarden, or any

two of them, shall be complained of to any Justice of the Peace, and by him suspected for refusing the oath of allegiance. 7. Jac. 6. Lamb. 199, 200.

Two Justices of Peace, one being of the Quorum, may require any person of the age of 18 or above, under the degree of a Baron or Baroness, to take the oath of allegiance, and on refusal to commit him to the goal without bayl, till the next Assizes or Q. Sessions. 7. Jac. 6. Lamb. 363.

Where the examination of a Justice of Peace is the conviction of the party, there it ought to be upon oath: but where it is but to inform the Jurie upon the indictment, it needeth not. Lamb. 536. Dal. 125. Though the Statute doth not expressly say it shall be upon oath. Dal. *ibid*.

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence.

If the examine die before the triall, the examination may be evidence; without oath many will speak coldly. It is the practise of the Courts in Westminster. Dal. 264. Cro. 194 2. Lamb. 213, 214, 215.

The refusing the oath of allegiance required by two Justices of the Peace, and the taking of the same and oath of supremacy by a conformed Recusant returning into England, are to be certified at the next Q. Sessions. 7. Jac. 6. Lamb. 216.

The oath of allegiance required at the Q. Sessions of such as formerly refused the same, and being there tendered and refused, the refusers (other then Noblemen and women) incurre *Præmunire*, except women covert, who are to be sent to the goal without bayl. *ibid*.

Orchards and Gardens, *vide* Hedgebreakers.

166 Overseers of the Poore.

All to whom the overseers by 43. *Elis.* 2. may binde apprentices, may take and keep them as apprentices, and the overseers may with the assent of two Iustices of Peace, one being of the Quorum, in their respective limits where there be more then one, or by assent of one Iustice of Peace where there be no more, set up, use and occupy any trade, mysterie, or occupation, onely for setting poore of the parish on work wherein there are overseers. 3. *Car.* 4.

Pannell, *vide* Jurours.

Pardon.

AT the Common Law before the statute of 13. *R.* 2. a pardon of all felonies was good for murders, and some for treason. *Lamb.* 561.

Pardon of all felonies is not good for murder or petty treason, except the pardon be with a *non obstante*, or that murder be therein expressly mentioned. *Dal.* 213. *Cro.* 21. b.

But it is good for accessaries, both before and after. *Lamb.* 561.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned. *Dal.* 213. *Cro.* 115. *Lamb.* 562.

Breaker of the Peace after the pardon, forfeiteth the pardon, and may be hanged notwithstanding his pardon. *Dal.* 213. *Cro.* 115. b.

The King onely can pardon treason, murder, or other felony, or any accessary thereunto. *Dal.* 214.

Generall pardon is that which is given by act of Parliament.

Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof. *Lamb.* 559, 560.

Pardon of abjuration is not good without speciall words of abjuration. *Lamb.* 562.

Quere if a generall pardon for petty-treason avail him that is indicted of murder, without the word *proditorie*. 560.

A generall pardon coming betwixt the stroke and the death of all misdemeanors, will avail for the death. *Lamb.* 560.

Quere if a pardon of all offences (except persons outlawed of murder) will avail one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lamb.* 560.

Pardon of attainder and execution for felony is not good for felony. *Lamb.* 562.

Pardon of a Goaler for escapes of felony and traitours, is not good for voluntarie escapes. *Lamb.* 562.

Pardon of 2 for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lamb.* 562.

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for petty-treason, murder, nor of one attainted of felony. *Lamb.* 561.

A speciall pardon ought to be pleaded under the great seal, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unlesse there be a dispensation by *non obstante*. *Lamb.* 561.

Prisoner pleadeth a pardon, the I. of P. in absence of the Kings Attourney may joyn issue that he is one of the persons excepted. *Lamb.* 360.

He that killeth another *se defendendo*, must sue to the King for a pardon. *Lamb.* 253.

He that killeth one by misadventure, shall have a pardon of course without suit. *Lamb.* 254.

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their triall plead not guilty, and then the speciall matter being found by verdict, they shall be bayled; then they must sue forth a *Certiorari* to certifie the record to the Lord Chancellour, who shall make them a pardon of course under the great seal without suing to the King. *D.* 217. *Sta.* 154.

Park and Parker, *vide* Hunting.

Hunters or killers of any Deere or Conyes in the night or daytime in any park or warren, or in any other inclosed grounds, and being thereof lawfully convicted, every such offender shall suffer 3 moneths imprisonment, and finde sufficient sureties for the good behaviour for the space of seven yeares, or else continue in prison till he finde such sureties for the space of 7 yeares. *Dal.* 317. *5. Elis.* 21. 3. *Fac.* 13. *Ed.* 1626.

Parlon and Vicar, *vide* Ecclesiasticall causes,

Partridges and Pheasants.

Every I. of P. may examine offences against the statute of 23. *Elis.* 19. *Dal.* 67. *Lamb.* 200.

By 1. *Fac.* 27. he that shall shoot at, kill, or destroy with any gun or crossie-bow any Partridge, Pheasant, House-dove or Pigeon with setting-dogs and nets, or with any manner of nets, snares, engines, or instruments; or shall kill or destroy any partridge,

Partridges and Phefants. 169

partridge, pheasant, house-dove, pigeon, heron, mallard, duck, teal, or any such fowl, or hare; or shall take or willingly destroy the egges of any pheasant, partridge, or swan; or shall trace or course any hare in the snow, or take or destroy any hare with cords or such instruments, or shall keep any greyhound for deere or hare, or setting-dogs, or nets, to take phefants or partridges, not having lands of inheritance of 10 pound, or 30 pound *per annum*, not having lands of inheritance for life or in goods 200 pound, or be sonne of a Knight, or sonne and heir apparent of an Esquire: any of the said offences being proved by the parties confession or oath of two witnesses before any two Justices of Peace of the countie where the offence shall be committed, or the partie apprehended, shall be imprisoned for 3 moneths without bail, unlesse he forthwith upon his conviction pay to the use of the poore there 20 sh. for every hare, fowl, and egge, and 40 sh. for every greyhound, setting-dog, or nets, or after three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognizances taken by two Justices of the Peace may be returned at the Quarter Sessions, 1. *Jac.* 27. *Dal.* 67, 68. *Lam.* 335.

By 7. *Jac.* 11. proof of 1 witnesse is sufficient for the taking, &c. of partridges and phefants; the punishment as 1. *Jac.* 27.

Killer of partridges or phefants with hawks or dogge, by colour of hawking between the first of July and the last of August, upon conviction within six moneths after the offence by the confession of the partie or oath of two witnesses before two Justices of Peace, is to be imprisoned one moneth without bail, unlesse he pay presently to the Churchwardens

170 Partridges and Pheasants.

wardens and Overseers of the poore where he offended or was taken, 40 shill. for hawking, and 20 shill. for every partridge or pheasant taken. 7. *Jac.* 11. *Dal.* 68. *Lam.* 335.

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by trammell and there to let them go again, loseth 20 shill. a pheasant, and 10 shill. a partridge. 11. *H.* 7. 17. & 23. *Elis.* 10. *Lam.* 447.

Hawking in corn before it be cropped, without consent of the owner, loseth 40 shill. *ibid.*

Taker, killer, or destroyer, by gunnes, bows, setting-dogs, nets, or other engines, of any partridge or pheasant, except the owner of a warren, lord of a manour, or having lands of inheritance in his own or his wives right of the clear yearly value of 40 pound, or for life of 80 pound, or goods worth 400 pound, and their household-servants authorised by them within their own grounds in the day time onely betwixt Michaelmas and Christ-masse, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned 3 moneths without bail, unlesse he pay immediately unto the Churchwardens and Overseers of the poore of one of the said places, 20 shill. and be bound to the King by recognizance in 20 pound never to offend again; the same to be certified at the next generall Quarter Sessions. 7. *Jac.* 11.

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every deer 40 sh. pheasant 20 sh. hare or partridge 10 sh. one moytie to the informer, the other to the poore of the parish. 1. *Jac.* 27.

Con-

Constable by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may detain, kill, or cut in pieces any of them. 7. *Jac.* 11.

Offences against the statute of 1. *Jac.* 27. punished by it, are not to be punished by Judges of Assize in their circuit, Justices of Peace at Quarter Sessions, or two Justices of the Peace out of the Sessions. 1. *Jac.* 27.

Offences punished by 7. *Jac.* 11. are not to be punished by any other. 7. *Jac.* 11.

Peace.

Every private person that shall be present at any affray, assault, or batterie, ought to part them that fight; and if he take hurt, he shall have his action; but if they resist him, he may not hurt them. *Lam.* 131. *Dal.* 28.

Every man may stay the affrayers, till their heat be cooled, and then they may deliver them to the Constable to imprison them till they finde sureties of the Peace; but they may not imprison them unlesse the one of them be in perill of death by some hurt, for then any man may carry the other to the goal till it be known whether the other will live or die. *Lam.* 131. *Dal.* 28.

He which hath mortally hurt another, flieth into anothers house; any man that pursueth him with hue and crie, may break open the house, enter, and take him. *Lam.* 131, 132. *Dal.* 29.

Peers,

Peers, vide Noble personages.

Pedlers, vide Rogues.

Perjurie.

Procuring any unlawfully to commit wilfull perjurie in any case depending in Court of Record, Leet, Count Baron, Hundred Court, or ancient demesne, or hath corruptly suborned any witness sworn to testifie *in perpetuam rei memoriam*, or if any have upon such procurement or by his own act wilfully committed such perjurie, the procurer shall forfeit 40 pound; and if not worth so much, half a yeares imprisonment without bail, stand upon the pillorie for one houre, and disabled for a witness for ever after.

The perjured 20 pound and six moneths imprisonment, and ever disabled for a witness; and if not worth 20 pound, to have his eares nailed to the pillorie. *5. Elis. 9. & 14. Elis. 11. & 1. Jac. 25. Lam. 416. Cro. 18. a. b.* This offence to be heard and determined in the Sessions. *Lam. 609.*

Execution of the forfeiture upon the statute of perjurie, to be awarded by the Justices of the Peace before whom the conviction was. *Lam. 505.*

Committing of perjurie upon answer to a bill of complaint is not within the statute of *5. Elis. 1.* but for a false deposition upon examination upon interrogatories. *Cro. 18. b.*

If any give false evidence upon a bill of indictment at the Sessions, it is held he shall not be punished by the statute of *5. Elis.* for that the King is not named in the said statute, *Cro. 16. b.*

The wilfull killing or joyning in killing of the husband by the wife, the master or mistress by the servant, the Ordinary by his clerk, is pettie-treason. 25. E. 3. 2. *Lam.* 245, 246. *Dal.* 204, 205. *Cro.* 19. b.

The childe maliciously killeth the father or mother, it is pettie-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said childe; but it is treason in the said childe, in respect of the dutie of nature violated. *Dal.* 205. *Cro.* 19. b. But *Lam.* saith it is not treason in the childe, if the father give it not meat nor drink, as to a servant, *Lam.* 245. and do their businesse, for it is as a servant.

The sonne or daughter in law kill the father or mother in law with whom they dwell, and do service, and have meat and drink; it is pettie-treason, though such childe take no wages; but the enditement shall be by the name of servant. *Dal.* 205.

Judgement in petty-treason is, a man is to be drawn and hanged; if a woman, both in high-treason and pettie-treason to be drawn and burned. *Dal.* 206. *Lam.* 370.

The forfeiture for pettie-treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper fee. *Dal.* 206.

No clergie is allowed in case of pettie-treason, *Dal.* 212.

Pewter, vide Brasse.

Physician.

One neither Physician nor Chirurgeon taketh upon him to cure a sick or wounded man, who di-

eth under his hand, it was felonie. 34. H. 8. Lam.
240. Dal. 211.

But if a smith or other having skill onely in curing and dressing diseases of horses or other cattell, shall take upon him cutting or letting bloud, or such like cure of a man, who dieth thereof, it seemeth to be felonie. Dal.

Pictures brought from Rome, *vide Agnus Dei.*
Playes & Players, *vide Unlawfull games, vide Rogues.*

Plague.

Head-officers and Iustices of Peace in a corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or priviledged place, or liberties thereof, for the reasonable relief of persons infected, or dwelling in houses infected within the said corporation or priviledged place. 1. Jac. 31. Lamb. 337.

Corporation or priviledged place not being able to relieve the persons infected therein, upon certificate of the head-officer or Iustices of Peace, or two of them to the two next Iustices of the Peace, may assesse and tax the inhabitants of the countie within five miles of the corporation at a weekly tax for the relief of them. 1. Jac. 31. Lamb. 337.

There being no Iustice of Peace in the corporation, or the infection being in a hamlet, the two next Iustices of the countie may assesse the inhabitants of the countie within five miles of the place infected, for the reasonable relief thereof. 1. Jac. 31. Lamb. 338.

The

The taxes upon refusal to be raised by warrant of the head-officers or Iustices upon the goods of the refuser, or upon default of goods returned, the partie by another warrant to be impleaded, till he make payment thereof with the arrerages. 1. *Jac.*

31.

Taxes made for the relief of places infected, are to be certified at the next Qu. Sessions, and there to be continued, enlarged, or extended to other parts of the countie, or determined by the greater part of the Iustices. 1. *Jac.* 31. *Lam.* 609.

Taxes levied of the countie for the relief of an infected corporation are to be disposed by the head-officer and Iustices of the corporation, or two of them; and if there be no Iustice, then by the Iustices assessors. 1. *Jac.* 31.

Officers negligent in levying of the taxes, lose so shall, to be employed as the taxes. 1. *Jac.* 31.

Watchmen not to be impeached for hurting those infectious persons that being commanded to keep in, will in offering to come forth resist the watchmen. 1. *Jac.* 31.

Any infectious person commanded to keep in, goeth abroad and keepeth companie, having an infectious sore uncured, is felonie without corruption of blood, or forfeiture of goods; if without sore, to be punished as a vagabond by 39. *Elis.* and bound to his good behaviour for a yeare. 1. *Jac.* 31.

Officers of a corporation and Iustices of the Peace in the countie, may respectively appoint, swear, and direct searchers, watchers, and triers of infected persons and places. 1. *Jac.* 31. *Lam.* 197.

Plaints

One Justice of Peace may upon complaint examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entring of plaints in their countie Court in books against the statute, or any bayliffe of the hundred for not warning the defendant in such a plaint according to his precept from the Sheriffe or Undersheriffe; and if he thereby finde them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination, and these examinations the Justice must certifie into the Exchequer within a quarter of a yeare, on pain of forfeiture of 40 shill. for every default. 11. Hen. 7. 15. Lam, 101. Dalt. 107.

Sheriffe entring plaints in any mans name that is not present in Court, nor hath any sufficient Attorney or deputie, loseth 40 shill.

So if he enter more plaints then the plaintiffe supposeth he hath cause of action for. 11. Hen. 7. cap. 1. Lam, 431.

Pond and Pond-heads, vide Fish.

Poysoning, vide Murder.

Pope.

To extoll the power of the Pope by writing, printing, preaching, or any speech, open deed or act advisedly holden, or of his See heretofore claimed and usurped within this Realm, or to abbat, procure, counsel, aid, or comfort such, is treason, 5. Eliz. 1. Lam. 411. for the second offence; for the first offence, *Premunire*. Dalt. 200.

Presumment at the Quarter Sessions for extolling the power of the Pope of Rome, must be certified by the Justices of Peace before whom it

was

was taken into the Kings Bench, within 40 dayes after, if the term open; if not, then the first day of the next term, or every J. lose 100 pound. 5. *Elis. 1.*

Printer, buyer, seller, or bringer from beyond the sea of any Popish Primer, Lady Psalters, &c. in any language, or other superstitious books in English, loseth 40 shill. a book, whereof one part to the King, another to the informer, a third to the poore of the parish where the book shall be found.

3. *Jac. 5.*

Two Justices of the Peate may search the house or lodging of a Popish Recusant, or whose wife is such, for Popish books and reliques, and finding any unmeet for them to use, must deface and burnt them, or being of value deface them and restore them to the owner. 3. *Jac. 5.*

Poore People.

Traveller with wife and children, not being a rogue, dyeth or runneth away, the Town where that happeneth is not bound to keep them nor send them away, except they become wandring rogues. *Lamb. 208. Resol. 7.*

Parents able to work are to finde their children by their labour, and not the parish. *Resol. 8.*

None is to be removed out of the Town where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Town except he be impotent. *Resol. 9.*

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for themselves and services. *Resol. 9. Dal. 75.*

Able bodies refusing to work, and no wanderers, are not to be sent to the place of birth or last habi-

M

sation,

tation, but to the house of correction, *Ref. 10.* by such a Iust. of P. as may appoint overseers for the poore. *43. Elis. 2. Dal. 71. Lamb. 209, & 295.*

Able bodies, yet idle and refusing to work, having any lawfull means to live by, are not to be sent to the house of correction. *Ref. 10.*

It is fineable to remove or put any out of the parish, who are not to be put out, and such may be sent back. *Refol. 11.*

None may take relief at any mans doore in the parish, but by the appointment of the overseers, nor beg in the high-ways in their parish. *Ref. 15.*

Parsons, vicars, farmers, or owners of impropriations, colemines, or saleable woods, are to be charged with the relief of the poore. *Ref. 18, 19.*

In default of an asseſſe made by the Churchwardens, Constables, and Parishioners of the Tax imposed upon them at the Easter-Sessions, one Iustice dwelling in the parish, or if none dwell there, the next adjoyning Iust. may rate the asseſſe, & in default of payment may levy the same by distresse.

Any Iustice of Peace may imprison without bayl, and make sale of the offenders goods, rendering to the party the overplus; and in default of such distresse, any Iustice of Peace may imprison without bayl such refuser untill he pay the same. *43. Elis. 2. Lamb. 294, 295. Dal. 110.*

Bishop and his Chancellour and 3 I. of P. have power to examine how money for relief of the poore appointed by the statute is bestowed, and to call to account the detainers thereof. *14. Elis. 5. & 39. Elis. 34. Lamb. 336.*

I. of P. proved before the Iudges of Assize by 2 witnesses to be in default of examination of the statute for the poore, loseth 5 pound. *14. Elis. 5. Lamb. 372.*

Parents

Parents at the Q. Sessions appointed to keep their children, or children their parents, and have not relieved them at their own charges, lose 20 shil. a moneth. 39. *Elif.* 34. *Lamb.* 445.

In disability of the parish or hundred to relieve their poore, the greater part of the Iustices at the Q. Sessions may rate any other parish or hundred thereto. 39. *Elif.* 3. & 43. *Elif.* 2. *Lamb.* 611.

Beggars children at the Q. Sessions may be bound to serve any subject in an honest calling. 14. *Elif.* 5. & 18. *Elif.* 3. *Lamb.* 614.

Performance, or not performance of so much of the statute of 14. *Elif.* 5. for the poore as is not repealed by 39. *Elif.* 3. or 43. *Elif.* 2. is to be yearly examined at Easter-Sessions. 14. *Elif.* 5. *Lam.* 620.

Overplus of the stock for maymed souldiers is to be employed by the greater part of the Iust. at the Q. Sessions to such charitable uses, as are set down in the statute for the poore, except by them it be reserved for future pensions. 43. *Elif.* 3.

Young children, the parents being dead, are to be set on work and relieved by the Town where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal.* 75.

The Iustices may compell such as be of abilitie, to take poore children apprentices, and may binde such masters refusing over to the next goal-delivery: so said Sr. Henry Montague at Cambridge Assizes 1618. and the statute of 43. *Elif.* 2. seemeth to warrant as much, the words whereof are to this effect. It shall be lawfull for the Churchwardens and overseers or the greater part of them, by the assent of 2 I. of the P. to binde any such children to be apprentices where they shall see convenient cause, *Dal.* 92, 93. or the Churchwardens or over-

seers, with the assent of 2 such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusall to levy it upon the Justice of Peace his warrant by distresse and sale of the offenders goods. *Dal. 93. Edit. 1626.*

If the parents, without good cause shewed, refuse to suffer their children to be apprentices, the Justice may binde them over to answer their contempt; if the childe refuse, send him to the house of correction *quousque, &c. Dal. 93.*

A master putteth his apprentice into apparell, he cannot take it away though he part with the apprentice. *Dal. 93. Edit. 1626.*

If after the death of *A*, another man abateth or entreth into his house forcibly before the heire of *A* hath gotten any actuall possession indeed, the heire of *A* shall have no restitution, because he had a possession in law onely. *Lam. 153. Dal. 44, 185.*

Two Justices of Peace, one being of the Quorum, may send to the house of correction or goal such as imploy not themselves to work being appointed. 43. *Elis. 2.*

Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none. *Lamb. 315. Dal. 88, 89. Cro. 62, 64. b.*

Power of the county is raised without knowledge or information of a riot; if when they come they finde one, it is lawfull, and they may proceed to punish it. *Lamb. 316. Dal. 88, 89. Cro. 62, 64. b.*

Power of the county in suppressing a riot, *vide* Riot.

The Justice of Peace, Sheriffe, or undersheriffe, in levying

Power of the County. 181

levying power of the county, may have the aid of all the Knights, & other temporall men under this degree that are above the age of 15, and able to travell, upon pain of imprisonment, fine, and ransom to the King. *Dal. 88. L. 315. Cro. 157. b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort they shall be armed. *Dal. 88. Lamb. 315. Cro. 64 b.*

One I. of P. may take power of the county, suppress riotters, and need not tarry till his fellows come. *Cro. 157. b. Dal. 84. Lamb. 184.*

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro. 158. a. L. 134.*

Sheriffe upon a writ of execution returned that he could not execute it for resistance, and was amerced 20 marks, because he took not the power of the county, *Cro. 158. a.*

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have 3 moneths imprisonment. *Lamb. 416. 1. M. c. 3.*

If the disturber of any preacher be arrested and brought before any Iustice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within 6 days after another Iustice joyning in examination, they, upon confession of the party, or conviction of 2 witnesses, may commit him to prison for 3 moneths. *1. Mar. 4. Lamb. 195, 333.*

Quere if all the statute of *1. Mar. 3.* be not repealed by the generall words at the latter end of the statute. *1. Elis. 2.*

Precept, *vide* Warrant.

Præmunire.

Refusall to take the oath of the Kings Supremacie, the first offence is *præmunire*, the second treason. 5. *Elif.* 1. *Lam.* 411.

To aid, comfort, or maintain one that hath committed treason in using of bulls, is *præmunire*. 23. *Elif.* 1. *Lam.* 411. *Vide* Treason.

To hold, set forth, or defend the power spiritual of any forreign Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expresse deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *præmunire*, the second treason, 1. *El.* 1. & 5. *El.* 1, enquirable by words of 23. *El.* 1. & *Lam.* 411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from Bishop or See of Rome, &c. to the intent to uphold the authoritie of the See of Rome, incurreth *præmunire*. 13. *El.* 1. & 23. *El.* 1. *Lam.* 413.

To bring from the Bishop or See of Rome, or any claiming authoritie from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or receive them to such intent, and not to apprehend the offender, or within three dayes disclose him to the Ordinarie or other Iustice of Peace, or within one day deliver the things received to a Iustice of Peace. 13. *El.* 2. & 23. *El.* 1. *Lam.* 414.

The forfeiture in cases of *præmunire* upon the statute of 16. *R.* 2. is to forfeit his lands and tenements

tenements in fee for ever, his lands in tail for his life, and all his goods and chattells, and to have a perpetuall imprisonment, and to be out of the Kings protection. *Cro. 14. a. Dal. 226.* but *quare* if he be attainted upon the 27. of *E. 3.* 1. if he appear and the day of the *præmunire* returned. *Dal. ibid. Edit. 1626.*

A man may not kill him which is attainted in the *præmunire*, by *5. Elis. 1.* but before he might, for they were out of the Kings protection. *Cro. 15. a.*

One lawfully imprisoned untill the next Sessions for refusing the oath of alleagiance, and there again refusing it, incurreth a *præmunire*, except married women, who are onely to be imprisoned without bail. *3. Jac. 4. & 7. Jac. 6.*

Not disclosing nor certifying within 24 dayes the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Councell, *13. El. 2.* is *præmunire*.

Breakers of bargains contrarie to the statute of *27. H. 8.* provided against usurie, shall be punished, as Counsellours, Attorneys or Advocates in case of *præmunire*. *27. El. 8.*

Delivering or sending any relief to a Iesuite, Priest, or other remaining in any colledge of Iesuites, incurreth *præmunire*. *27. El. 2.*

Presentment.

Presentment is a declaration of the Iurours or Officers without any bill offered before. *Lam. 405.*

It differeth from an enditement, which is the verdict of the Iurours that be charged to enquire of that offence which is offered. *Lam. 486.*

What shall be a good presentment.

Presentment at a Sessions where the style is in the name of three, and the presentment taken by two. *Lam. 383.*

Presentment where some of the Jurours be allied or of blood to him that procureth the enditement; but it is no discretion in the Justice to suffer such to be impannelled. *Lam. 398.*

Presentment where some of the Jurours be allied or of blood.

Presentment of a Jurie of an hundred, of an offence done in another hundred. 399.

Presentment where all were not sworn, if the Record be that all were sworn. *Lam. 399.*

Where the declaration of the Officers of the Sessions shall have the force of a presentment.

A Justice of Peace upon his own knowledge of offences against the statute of 2. & 3. P. & M. cap. 8. & 5. Elis. cap. 13. of high-ways. *Dal. 51. Cro. 125. b. 195. a.*

Searchers appointed to examine the true making of tile.

Constable for sundrie points in the statute of Winchester. 13. E. 1.

Amendment of a presentment, *vide Venire facias.*

Priests, *vide Jesuites.*

Principall and Accessarie, *vide Accessarie.*

Prison.

One committed to prison for refusing to finde sureties

sureties for the Peace, shall remain there till he freely offer and finde them. *Lam. 93.*

One committed for denying to finde sureties for the Peace, may not be delivered upon the death or release of the partie, without help of the Sessions or goal-deliverie. *Lam. 93. Quere.*

One imprisoned till he make fine that stood whilest one was slain, because he did not his best to attach the murderer. *Lam. 132.*

The Sheriffe or Goaler may imprison in his house or in the common goal at pleasure. *Dal. 297. Cro. 169. 8. Lam. 133.*

Constable cannot imprison in his house but in the stocks, and that but untill he may provide convenient aid to convey him to the Justice of Peace or the goal. *Dal. 297. Lam. 133.*

Just. of Peace cannot commit felons to prisons which be not common goals, nor make a goal of their own houses. *Dal. 197. Lam. 133. 5.H. 4.*

Justice of Peace may commit to the stocks some offenders against certain penall statutes. *Dal. 297.*

Breach of prison is the escape of a felon, though not endited, out of the goal, stocks, or possession of any keeper. *Lam. 229.*

One imprisoned upon a *Capias pro fine* is to be delivered upon payment thereof, *Lam. 574.* or upon pledges by recognizances for payment thereof.

Prisoners.

Every one who is under arrest for felonie, is a prisoner as well without prison as in the stocks, in the high-way, or in the possession of him that arrested or hath the keeping of him. *Dal. 239.*

To break prison is felonie, being committed for

for felonie. *Lam.* 229, 424.

Rescous to help a prisoner committed for felonie, to get away is felonie. *Lam.* 229, 424.

If an officer or other whatsoever by his wilfull default suffer a prisoner to escape, it is felonie. *Lam.* 229, 424.

Prison-breach is to escape out of the stocks, or out of any mans possession. *Lam.* 229.

Unlawfully to utter a device to set a prisoner at libertie, endited of treason concerning the Kings person, is felonie, *Lam.* 403. expired.

Churchwardens are to levie money for the relief of prisoners, and to pay it to the high Constable quarterly, who is to pay it to the collectour at the Quarter Sessions, and he is to distribute it weekly; any making default lose 5 pound. 14. *Elif.* 5. *Lam.* 475.

Prisoner of sufficient abilitie shall bear his own charges, and of them that shall be appointed to guard him to the goal; and he refusing, the Constable of the parish where he dwelleth, by warrant from the Justice that committed him, may levie the same by distresse and sale of his goods after apprizement by foure of the parish, the overplus to be delivered to the owner. 3. *Jac.* 10.

Prisoner not of abilitie, and those that guard him, to have their charges from the place of apprehension to the goal born by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, & two or three of the inhabitants, and allowed by the J. of P. 3. *Jac.* 10.

Any lawfully taxed for the charge of bringing a prisoner to the goal, and refusing to pay it, Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levie the

the same by distresse, and (after apprizement by foure of the parish) sale of the goods, giving the owner the overplus. 3. *fac.* 10.

Default in action for a distresse taken by force of the statute of 3. *fac.* 10. may plead not guiltie, and give the speciall matter in evidence, and upon recovery or non-suit shall have treble damages. 3. *f.* 10.

Prisoners discharged by Iustices of Peace who take the enditement to be void, may be stayed if they change their opinion before judgement. *Lam.* 540.

Privie Sessions, *vide* Sessions.

Processe.

Processe hath the name because it proceedeth or goeth out upon former matter either originall or judiciall. *Lam.* 519.

Suggestions and informations, whether by word or writing, are but to stirre up the Iustices to commend the cause to the Inquest, and not to award processe upon them, *Lam.* 509. unlesse it be certain causes where it is especially given them by statute. *ibid.*

Authoritie to make processe upon enditements is given to the Iustices by words of their commission, or by implication where the power of hearing and determining is given by their commission. *Lam.* 520.

No processe, plea, or suit, is to be discontinued by making a new commission of the Peace. 11. *H. 6. Ed. 6. 2.* *Lam.* 520.

Processe upon all enditements of trespassse against the Peace or upon speciall statute is *Venire facias*; and if he be thereupon returned sufficient, then a *Distingas infinite*; if he be returned *Nihil*

nihil habet, then *Capias alias, pluries, Exigent*, Lam. 522, 523.

Processe upon the statute of unlawfull games, liveryes, maintenance, archerie, &c. *Venue facias, Capias, Exigent*. 33. H. 8. 10. *Quere* it not repealed by 37. H. 8. 7. Lam. 523.

Processe upon the statute of victualls, attachments, *Capias, Exigent*. Lam. 523, 524.

Processe upon depraving the Sacrament is two *Capias, Exigent, Capias ut legatum*, and may be sent by any three Justices into any shire. Lam. 524.

Justices of Peace may award processe into a forrein county against an accountant for money levied for making a goal. 23. H. 8. 5. *Elif*. 4. Lam. 525.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriffe of the shire wherein to he departed, returnable before themselves. 5. *Elif*. 4. So where a decayed bridge is in one countie, and the partie or land chargeable in another countie. 32. H. 8. 5. Lam. 525.

One indicted of treason or trespassse in one countie, is imprisoned in another.

Justices may award *Habeas corpus* to remove him before themselves. Lam. 526.

Processe upon indictment of felonie may be sent into any forrein countie. 5. E. 3. 11. Lam. 528.

Processe upon indictment of felony is two *Capias* and an *Exigent*. 23. E. 3. 14. Lam. 527.

Enditement of treason, felonie, or trespassse in one countie nameth the endited to be in another, the first processe shall go into the countie where he is indicted, the second to the countie where he is named, to be returnable three moneths after; and if he be not to be found there, then that Sheriffe to make

make proclamation at two Countie Courts before the Iustices of the countie when the indictment is at the day in the *Capias*; and if he appeare not, an *Exigent* to be awarded. 8. H. 6. 10. Lam. § 25, § 26.

The two Iustices of the Peace which have the oversight of the amerciaments; upon suggestion may make processe as in the trespassse against the offenders of that statute to answer before them. 11. H. 7. 14. Lam. § 60.

No processe is to be awarded by the Iustice after outlawrie, but they are to certifie the outlawrie into the Kings Bench. Lam. § 23, § 24.

Processe upon informations must be such as the statute whereupon they are grounded do appoint. Lam. § 28.

The Sheriffe or his minister that hath arrested, or caused any fine, ranfome, or amerciamment to be levied by reason of indictment or presentment at the Sheriffes turn or law day without processe from the Iustice, loseth 40 pound. 1. E. 4. 2. Lam. 45.

Informations made in the Sessions that an alehousekeeper hath done any thing whereby he hath forfeited his recognizance, the Iustice of Peace may award processe against him, to shew cause why he should not forfeit his recognizance, Lam. § 29, but *quere* what processe.

Processe cannot be awarded by the Iustice of Peace upon any forfeited recognizance except alehouses, but he must certifie them to the higher Courts. Lam. *ibid.*

Iustices of Peace where the servant departed, may award a *Capias* to the Sheriffe of the shire whereinto he departed, returnable before themselves. 5. E. 4. 4. Lam. § 29.

Procla

Justices of Peace cannot acquit felons by proclamations, or without sufficient requirall; and if they cannot endite them, they must remain till the goal-delivery. *Lam.* 549, 550.

The form of proclamations to remove a force upon a writ upon the statute of *Northampton*, *vide Lam.* 168, 169. *Dal.* 46, 47.

Constable, if any affray be dangerous, may make proclamation. *Lam.* 132. *Dalton* makes *quere*, 28.

One Justice of Peace may make a proclamation in the Kings name to stay a riot. *Lam.* 183. *Quere*, for the statute 1. M. 12. d. 1. *Elis.* are expired.

Justices of Peace at every Sessions use to make proclamation, that if any will inform for the King, he shall be heard. *Lam.* 520.

Proclamation annexed to the statute of 4. Hen. 7. 12. is to be read every Qu. Sessions, or every Iustice present loseth 20 shill. 4. Hen. 7. 12. *Lam.* 633. *Quere* if of force now.

Promoters, *vide* Informers.

Prophefying.

Prophefier with intent to make rebellion or other disturbance in the Realm, being convicted thereof before the Iustice of Peace, shall be imprisoned one year without bail for the first offence, and forfeit also ten pound; for the second offence imprisoned all his life, and lose all his goods and chattels reall and personall, so he impeached within six moneths. 5. *Elis.* 15. *Lam.* 415; 416.

Purvey.

If purveyours, caterers, or servants of any man but the King, take any thing without the owners will, or as they can agree and make present payment, it is felonie. *Lam. 231. Dal. 246. Cro. 48. a.*

Purveyour shall not take cart or other provision of any Prelate or Clerk.

Purveyour, his deputie, undertaker, or servant maketh purveyance without warrant, of any thing above 12 pence, without consent of the owner, it is felonie. 2. & 3. P. & M. cap. 6. *Lam. 422. Dal. 245. Cro. 48. a.*

Purveyour taking any carriage in other manner then is comprised in his Commission, it is felonie. 36. E. 3. cap. 2. *Lam. 423. Dal. 145.*

Or any purveyour without Commission under the great Seal, *Dal. ibid. Cro. 48. b.* it is felonie.

Or make purveyance of goods above 12 pence, without testimonie and apprizement of the Constable and foure honest men of the town, and without delivering tales or indentures under his seal testifying his purveyance, it is felonie. *Lam. 423. Dal. 245. 5. E. 3. a. 25. E. 3. 1.*

To take more victuals or carriages for the Kings house, then he shall deliver to the same house, is felonie. *Dal. 245.*

To take sheep in their wools betwixt Easter and Midsummer at small prices, and to carrie them to his own houses to shear them, *Lam. 423. Dal. 245. 23. E. 3. 15.* is felonie.

Quere if the felonie of purveyours by 36. E. 3. b. be not altered by 2. 3. H. 6. 14.

Purveyour taking any thing of 40 shillings, or under, without present payment, loseth double the value of the thing taken; and the Constable upon request made, not aiding him to resist

resist the purveyour so taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20 pound. 20. Hen. 6. 8. & 23. H. 6. 1. Lam. 438.

Purveyour taking any thing of any man to spare him, is to be imprisoned two yeares, pay treble damages, and ransome. Lam. 439.

Purveyour taking corn by other measure then the stricken bushell, or by any more then eight such bushels to the quarter, and that hath taken carriages therefore without making ready payment, is to be imprisoned one yeare, and pay 5 pound unto the King, and 5 pound unto the partie. 25. E. 3. 36. E. 3. 3. & 1. Hen. 5. 10. Lam. 439.

Purveyour of timber or his deputie, causing any timber to be felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40 shillings for every tree. Lam. 438, 439.

Dockets of Purveyours ought to be delivered over to the Iustice of Peace at the next generall Sessions, and by the Iustice to be certified to the treasurer of the Kings household. 2. & 3. P. & M. b. Lam. 614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not as a felon. Dalt. 246.

Undertakers, deputies servants, and all other which under colour of the Kings Commission to

the

Rape, or ravishment. 193

the Kings purveyours, do take any victualls against the statute, are liable to the pains therein mentioned against purveyours. 2. & 3. *Pl. & M. b. Cro. 48. b.*

Justices of Peace are to certifie to the Treasurer of the Kings household the dockers of purveyours (brought to their Sessions by Constables) that the serving of such Commissions, and the true answering of purveyances may be better examined thereby. *Lam. 190. 2. & 3. P. & M. b.*

Putting out of eyes.

Upon malice prepenfed to put out any ones eyes, is felonie. 5. *H. 4. 5. Lam. 420. Dal. 242. Cro. 49. 2. Lam. 256.*

Quarter-Sessions, vide Sessions.

Rape, or ravishment.

Deflowring of a maid under ten yeares old, with or without consent, is felonie without clergie. 18. *Elif. cap. 6. Lam. 156, 421. Dal. 248. Cro. 47. b.*

Ravishing of a woman against her will, without consent either before or after the fact, or being with force, though after she do consent, is felonie without clergie. *West. 2. cap. 34. 18. Elif. 6. Lam. 156, 241. Dal. 248. Cro. 47. b.*

To be present and aiding the ravisher, is rape. *Lam. 258. Dal. 248. Cro. 47. b. Stam. 24.*

No rape where the partie deflowred conceiveth with childe. *Lamb.* 257. *Dalt.* 248. *Crom.* 47. b. *Stam.* 24.

Deflowring of one kept as the deflowrers concubine, is no rape; otherwise of another mans concubine. *Lam.* 257. *Dal.* 248. *Cro.* 47. b. *Stam.* 24.

Force without carnall knowledge is no rape, *Lam.* 257, 258.

A woman that is ravished ought presently to levy hue and cry, and to complain thereof presently to some credible persons. *Dalt.* 248, *Crom.* 100. a. *Stam.* 22.

To ravish a woman who consenteth for fear of death, &c. is ravishment; for consent ought to be voluntarie and free. *Dal.* 248. *Cro.* 48. a.

Rates, *vide* Taxations,

Records.

To rase a record is felonie; yet if a Iudge do embezell or rase a record, it is but misprision in a Iudge. *Dal.* 243.

Embezelling of any record, writ returnable, pannel, proceffe, or warrant of Atturney in Chancery, Kings Bench, Exchequer, Common pleas, or Treasurie, is felonie in the parties, their counsellours, procurers, or abettors. *Dal.* 243.

But it seemeth that Justices of Peace have not to do with these felonies. *Dal.* 148. *Lam.* 449. *Cro.* 56. 8. *H.* 6. 12.

Rebellious assemblies.

The statutes *1. Mar.* 12, and *1. Elis.* are discontinued.

Recogni-

Recognisance is a bond of record testifying the recogniser to ow a certain summe of money to some other, and the acknowledgement of the same is to remain of record, and none can take it but onely a Judge or officer of record. *Dal.* 284.

Every recognisance taken by a Iustice of Peace, must be made by these words *Domino Regi*, upon pain of imprisonment of any person that shall take it otherwise. *Dal.* 285, 332. 33. H. 8. 29. *Cro.* 196. 8. *Lam.* 162. *Dal.* 142.

Sureties in recognisances ought to be subsidie men, and they must be two besides the partie himself. *Lam.* 101.

It is in the discretion of a Iustice of Peace, if he take a recognisance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the summe of money, and how long he shall be bound. *Dal.* 141. *Lam.* 100.

If a Justice of Peace be deceived in the abilitie of the sureties, he may compell the partie to put in another. *Lam.* 101.

Recognisance of the Peace, without expressing in the condition that it was for keeping of the Peace, seemeth void. *Lam.* 103. *Dal.* 142.

So it is if a recognisance be that a recogniser shall not maim or beat *A*, without expressing keeping the peace. *Lam.* 103. *Dal.* 142.

Recognisance comprehending no time of appearance, but generally to keep the peace, is good. *Lam.* 103. *Dal.* 144.

Recognisance for the peace upon a *supplicavit*, is not of necessitie to be returned untill *certiorari*. *Lam.* 109. *Dal.* 144.

Recognisance taken to keep the peace against one especially, *quare* if it be good, *Lam.* 104. *Dal.* 143.

Recognisance taken *ex officio*, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 145.

Recognisance not forfeited is discharged by the death of the King, the cognizer or the partie suing for it, if it were against him alone. *Lam.* 113.

The sureties dying, the recognisance is good against the executors. *Lam.* 113.

Recognisances taken are to be certified notwithstanding the death of the King, *Lam.* 113. or of the recognizer, or of the partie at whose suit it was granted. *Lam.* 113.

The recognisance being forfeited, the Justice shall in discretion require new sureties, or commit him to prison. *Lam.* 114.

Recognisance of the Peace brought into the *Custos Rotulorum* and not pursued, may be called upon for the King by the Clerk of the Peace. *ibid.*

Justice of the Peace cannot award proceſſe upon a forfeited recognisance, but it must be certified into the higher court, except recognisance for ale-houses, *Lam.* 589, *Dal.* 144. *Cro.* 167, and the cause of the forfeiture. *Dal.* 172.

Recognisances or examinations taken concerning suspects or felons, are to be certified at the next generall goal-delivery. 2. & 3. P. & M. 10. *Lam.*

Recognisances taken by a Justice of Peace *ex officio*, are to be brought into the *Custos Rotulorum* at the next generall Sessions, *Lam.* 109. *Dal.* 144. *Cro.* 139. a. but no pain by the statute of 3. H. 7. 1. if he do not.

None but the King can pardon a recognisance once forfeited. *Lam.* 113.

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalf. *Lam. 63.*

If a record say any thing, no man shall be received to averre or speak against it. *Lam. 63.*

The Judges may correct or amend any record in the term wherein the record is to be made, but after they have no power at all over them. *Lam. 64. Dal.*

The record or testimonie of a Justice of Peace is in some cases of greater force then an enditement of a Iury, and against it the partie shall not be admitted to traverse. *Lam. 65.*

Embezelling of a record is felonie, but not to be dealt withall by a Justice of Peace. *Lam. 231, 549.*

Precepts for suretie of the Peace, speciall records for conviction of forcible entries made out of the Sessions, are not records of Sessions. *Lam. 389.*

Records of causes determinable at the Sessions taken by the Iustices of Assize at their goal-deliverie as Iustices of Peace, are to be left with the Clerk of the Peace to be brought to the next Sessions of the Peace. *Lam. 391.*

One pleadeth a record before other Iustices by way of justification, the Iustices ought to give him day to bring in the record. *Lam. 523.*

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilfull raising of an enditement, or maliciously inrolling that for an enditement, which was not found, or changing an enditement of trespassse into an enditement of felonie, loseth his office, and shall be fined and imprisoned according to his offence.

Wilfully absenting themselves from Church 12 moneths, contrary to 1. *Elis.* 2. and convicted, being of 16 yeares of age, are to be bound to the good behaviour, upon certificate of one Iustice of Peace to the Kings Bench, 1. *Elis.* 2. besides other penalties. 23. *Elis.* Dalt. 80.

Every Iustice of Peace may give notice to any person to forbear to receive or keep such as shall obstinately refuse to come to the Church by the space of a moneth. 35. *Elis.* 1.

Heir of a Recusant being a Recusant at his ancestors death, conforming himself, and taking the oath of supremacie made 1. *Elis.* before the Archbishop or Bishop of the Diocesse, shall be free from penalties for the recusancie of his ancestour. 1. *Jac.* 4.

Heir of a Recusant being under 16 yeares at the death of his ancestour, at or after 16 yeares becomes a Recusant, he is not to be freed of his ancestors penalties for recusancie, till conformitie as afore said. 1. *Jac.* 4.

Two parts of Popish Recusants lands being seized for payment of 20 pound a moneth, the third is not to be charged with it, but is to descend to his heir, and the two parts to remain in the Kings hands till he be satisfied thereof both for the ancestour and heir. 1. *Jac.* 4.

Any sending his children beyond the seas out of the Kings dominions to any religious house, to be instructed or strengthened in Poperie, loseth 100 shill. and the person so going, or being there, and not returning in one yeare, is disabled to inherite, purchase, or take any lands or goods in his Majesties dominions, till conformitie. 1. *Jac.* 4.

Estates in trust for benefit of any sent beyond the

the sea to any religious house to be instructed in Popery, are void. 1. *Jac. 4.*

Forfeitures upon the statute of 1. *Jac. 4.* against Popish Recusants, half to the King, and half to the suer in any the Courts of record at Westminster by action of debt, &c. 1. *Jac. 4.*

Popish Recusant conforming himself in coming to Church according to the law, and after convicted for not receiving the Sacrament once every yeare, loseth for the 1 yeare 20 pound, for the second yeare 40 pound, for the third yeare 60 pound: And if after conformitie in receiving the Sacrament, he offend therein, he loseth for every offence 60 pound, one moytie to the King, the other to the informer, to be recovered in any of the Kings Courts at Westminster, or before the Iudges of Assize, or Iustices of the Peace at their Qu. Sessions by action of debt, &c. 3. *Jac. 4. Lam. 418.*

Constables and Churchwardens, or for want of them, the high Constable once every yeare, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above 9 yeares old, or lose 20 shill. for every offence, and upon their conviction to have 40 shill. out of their goods. 3. *Jac. 4.*

Clerk of the Peace is to record the presentment of Constables and Churchwardens for monethly absence from Church, without fee, or loseth 40. shill.

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Iustices of Peace at their Qu. Sessions, as Iustices of Assize might before: 3. *Jac. 4. Lam. 617.*

Upon an enditement for not coming to Church, or not receiving the Sacrament, Iustices of the

Peace at their Qu. Sessions may by proclamation command the indicted to render his bodie to the Sheriffe before the next Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction. 3. *Jac.* 4. *Lam.* 616.

Popish Recusant convicted of not coming to Church according to law, shall in Easter or Michaelmasse term next after the conviction, pay into his Majest. receit after the rate of 20 pound a moneth, and so to continue without any other enditement, till he conform himself, and in default of payment, all his goods, and two parts of his lands to be seized till conformitie, leaving the mansion house to the third part. 3. *Jac.* 4.

The King seizing two parts may not let it to any Recusant nor for their use, and the lessee must give security to the King, not to commit waste. 3. *Jac.* 4.

Enditements against Popish Recusants are not to be avoided for want of form untill conformitie. 3. *Jac.* 4.

Iustice of Peace may heare and determine all offences against the statute 3. *Jac.* 4. except treason. 3. *Jac.* 4. *Lam.* 617.

Attainder of felonie upon the statute of 3. *Jac.* 4. of Popish Recusants, barreth not dower, nor corrupteth bloud. 3. *Jac.* 4.

Any pursued for doing any thing warranted by the statute of 3. *Jac.* 4. may plead the generall issue, and give the speciall matter in evidence. 3. *Jac.* 4.

Husband is not chargeable with the forfeiture of the wife upon the statute of 3. *Jac.* 4. for not receiving the Sacrament, nor the wife after his death.

Popish Recusant convict, coming to the court where the King or his heir apparant is, without the Kings command, or warrant in writing from

from the Councell, loseth 100 pound, 3. *Jac.* 5. the one half to the prosecutor.

Recusants convict or other forbearing for three moneths to heare divine service, now dwelling in London or within 10 miles, (except tradesmen having no other dwelling) are to depart within 40 dayes, and if they come to dwell there within 3 moneths, then to depart within 10 dayes after conviction, and to deliver their names to the Maior of London or the next Justice of the countie, or lose 100 pound, 3. *Jac.* 5. the moytie to the prosecutor.

Every one not repairing every sunday to some usuall place appointed for Common prayer, there to heare Divine service, upon conviction within one moneth after default, upon confession or oath of one witnesse, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Just. of Peace, may levie 12 pence for every default by distresse and sale of the offenders goods; & in default of distresse the Justice may commit him till he pay it, which is to be employed for the poore. 3. *Jac.* 4. *Dal.* 80.

They which harbour within their houses any (except parents or others to whose custodie they are committed) or knowing the same retain in their service any absenting themselves a moneth together from Church without reasonable excuse, lose 10 pound a moneth. 3. *Jac.* 4.

The King or five Lords of the privie Councell may by writing under the hands of the privie Councell license a Popish Recusant confined five miles, to travell out of his compasse for such time as is contained in the license, without inserting any cause. 3. *Jac.* 5.

Popish

Popish Recusant confined to five miles, informing upon oath foure Iustices of Peace that he hath necessarie occasion to travell further, and that he will make no causelesse delayes, they, with the assent of the Bishop of the diocesse, Lieutenant or his deputie under their hands and seals, and specifying in their license the cause and time of travell, may by license under their hands and seals give libertie to him to travell forth of his compasse, all other licenses to be void; and any travelling without such license, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35. *El.* 2. 3. *Jac.* 5. *Dal.* 84. *Lam.* 365.

Statute 35. *El.* 2. confining Popish Recusants to certain limits is hereby confirmed, and the proviso for licensing them to go beyond their limits is hereby repealed. 3. *Jac.* 5.

Popish Recusants convicted, are not to practise the common or civill law, nor physick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or officer in any Court, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle, or fortresse of the Kings, on pain of an 100 pound, one moytie to the King, the other to him that will sue. 3. *Jac.* 5.

Popish Recusant convicted, or whose wife is a Popish Recusant, during recusancie not to execute any publick office or charge in the Realm.

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her self according to law, forfeiteth to the King two parts of her dower and joynture, and is disabled to be executrix or administratrix to her husband. 3. *Jac.* 5.

Popish

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King. 3. *Jac.* 5.

Recusant convicted, married otherwise then by a Minister lawfully authoris'd, and according to the orders of the Church, is disabled to be tenant by courtesie, or in dower, or by jointure, or to have widows estate or frankbank, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100 pound, one moytie to the King, the other to him that will sue. 3. *Jac.* 5.

Childe of a Popish Recusant, not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King, another to the poore of the parish, and the third to him that will sue. 3. *Jac.* 5.

Popish Recusant excommunicated, buried otherwise then according to the orders of the Church, his executours or administratours knowing it or causers of it, lose 20 pound, one third part to the King, one third part to the poore of the parish, and one third part to him that will sue for it. 3. *Jac.* 5.

Popish Recusant convicted, during his conviction, to be from the ending of that parliament disabled to grant any advowson, &c. or to present or nominate to any spirituall living, the same to remain to the Chancellours of the Universities, according to the severall shires limited in that statute, so that they present none having a former benefice with cure; if they do, the same to be void. 3. *Jac.* 5.

Penalties upon the statute of 3. *Jac.* 5. against
Recu-

Recusants to be recovered in any his Majesties courts of record by action of debt, bill, plaint, or information, without essoin, protection, or wager of law. 3. *Jac.* 5.

Married woman under Baronesse, convicted of not coming to Church, who doth not within three moneths after conform her self, to be committed by two Justices of the Peace, one being of the Quorum, untill conformitie, unlesse her husband pay 10 pound a moneth to the King, or the third part of his lands. 7. *Jac.* 6.

The penaltie of 12 pence, and of 20 pound a moneth shall be both of them payed by a Recusant convict. *Dal.* 104. *Cook* 11. 63. b.

Two Justices of the Peace may require a convicted Recusant of small abilitie, who repaireth not to the place of his dwelling, or place of his birth, there to notifie himself to the Minister and Constables according to the statute of 35. *Elis.* or afterwards remove 5 miles from the same (if upon apprehension he conform not within 3 moneths) to abjure the realm and assigne him his time and haven. 35. *El.* 2. *Dal.* 8.

The form of the oath.

You shall swear you shall depart this Realm of England, and all other his Majesties dominions, and that you shall not return hither or come again into any of his Majesties dominions without license of our soveraigne Lord the King, or of his heirs; so help you God. *Dal.* 107. *Stam.* 119.

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed go to such haven and depart, or after such abjuration

ration returneth without his Majesties speciall license, in every such case shall be adjudged a felon. 35. *El.* 2. *Dal.* 108. *Lam.* 419.

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred at the next generall goal-deliverie in the said countie. *ibid.*

The Bishop of the diocesse or any one Justice of Peace, or Minister of the parish where such convicted Recusant shall be, may require his submission. *ibid.*

Justices of Peace at their Quarter Sessions may require, heare, and determine of all Recusants both for not coming to Church and not receiving the Sacrament according to law, as J. of Assize and goal-deliverie may do, and at the Sessions (in which such endirement shall be taken) make proclamation to render their bodies to the Sheriffe, and before the next Quarter Sessions, at which if the offender make not appearance of record, it shall be a conviction. 1. *Jac.* 4. *Lam.* 616.

Regratour.

Regratour is he that buyeth live or dead victuals, tallow, or candles in the market, and selleth the same there, or within 4 miles. 23. *El.* 25. *Lam.* 450.

Release.

Justice of Peace compelleth one of his own motion to give suretie of the Peace untill a certain day, he may by like discretion release it before the day. *Lam.* 110. *Dal.* 146. *Gro.* 139. b.

Partie

Partie bound generally to keep the Peace without any day limited, it is for life, and no man can release it. *Lam. 110. Dal. 146. Cro. 142. b.*

Recognisance is taken at the suit of *A* to keep the Peace against him onely, *A* may release it before the same Iustice or any other that will certifie it. *Lam. 110. Dal. 147. Cro. 139. b. 169. a.* That release being certified at the next Quarter Sessions will discharge the partie bound of his appearance, so that he shall not be called upon for his recognisance. *Dal. ibid.*

Recognisance is taken *versus cunctum populum*, *præcipue versus A*; yet *A* may release it before any Iustice; *tamen quære*, *Lam. 110. Dal. 147. Cro. 142. b.*

Recognisance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture. *Lam. 111. Dal. 147. Cro. 140. b. 141. a.*

The Peace being released, the recognisance must not be cancelled, but certified at the Sessions with the release, lest peradventure the Peace was broken before the release made. *Lam. 111. Dal. 144. Cro. 1.*

Whether the good abearing taken upon complaint may be released by any speciall person, *quære*, *Lam 133. Dal. 163.*

Neither the Iustice of the Peace nor the partie can discharge the recognisance of the Peace by the release out of the Sessions; for first the recognisance is made by the King, and therefore none but the King can release or discharge it. Secondly, the recognisance is taken for the parties appearance, and the release cannot discharge the appearance. *Dal. 175.*

The appearance is requisite, notwithstanding
any

any release made; first, for the safetie of the recognisance; secondly, that others may object in open Sessions, if he have broken the Peace, that he may be endited thereupon. *Dal.* 176. *F. contra Comp.* 139. b.

If the Iustices of Peace at the Sessions do certifie the release, by this the obliged is discharged, and shall not be called upon for his recognisance, nor his default recorded; for the principall cause of the recognisance was the keeping of the Peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessarie to the same, and the intent is onely that then he should finde new suretie if the partie will not release: and this is the common usage.

Vide plus Recognisance, & Forfeiture.

Religious houses.

The owner of the site of a religious house dissolved, must keep a continuall house there, or lose 20 nobles a moneth, to be enquired of at the Quarter Sessions. 27. H. 8. 22. 5. *El.* 2. *Lam.* 471.

Replevin, *vide* Bailment.

Rescous of a Felon.

Rescous is to help a prisoner to get away; and if it be a felon, it is felonie. *Lam.* 229. *Dal.* 238, 239.

Rescous of a felon before arrest is no felonie, otherwise after arrest. *Lam.* 230. *Dal.* 229. *Quare.*

Rescuing a prisoner going to the gallows, is felonie. *Dal.* 229.

108 Restitution of Possession.

A warrant being granted by a Iustice of the Peace for unlawfull hunting of deer or conies, to make rescous thereupon, is felonie. *Dal. 57.*

Rescous against an officer or person authorised to execute the statute of 39. *El. 4.* loseth 3 pound, and is to be bound to his good behaviour. *Dal. 101.*

Restitution of Possession.

None shall have restitution but such as are put out of house or land. *Dal. 171. 183. Cro. 162. b. Lam. 153.*

If it be found upon enquire that any have entered or held with force, contrarie to the statute 8. *H. 6. 9.* the Iustice of Peace may reseise and put the partie so put out in full possession. *Dal. 182. Cro. 161. b.*

The Iustice of Peace needeth not to stay or stand upon the right or title of either partie. *Dal. 183. Cro. 161. b. 164. a.*

No restitution is to be made where there was onely a possession in law. *Lam. 153.*

In a restitution it is not enough that the putting out be found, unlesse the enditement do also contain in it *adhuc extra tenet.* *Dal. 183. Cro. 163. b. Lam. 153.*

Restitution ought to be made to none other then the partie put out. *Dal. 183. Cro. 162. b. Dal. 183. Lam. 153.*

After the entring or detaining with force found, the Iustice of Peace may by himself or precept to the Sheriffe under the test of himself alone restore the partie grieved to his possession. *Dal. 185. Lam. 156.*

None can make restitution but they before
whom

whom the enditement is found, but the Justices of the Kings Bench, either upon certificate made by the J. of P. before whom it was found of the presentment, or if the said presentment or enditement be removed by *Certiorari*. *Dalt.* 184. *Lam.* 157, 158.

If the Sheriffe return upon a precept or writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the county. *Dalt.* 185. *Lam.* 147. *Cro.* 163. b.

Justice of Peace before whom the presentment was made, dieth before restitution; *quare*, whether the Justices at the Sessions can award it. *Lam.* 155.

Justices of Peace ought not to award restitution where the enditement is sufficient in law, either in matter or form. *Dalt.* 183.

In the enditement 1. not onely an entrie must be, but also a putting out: 2. the enditement must expresse the qualitie of the thing, (*viz.*) whether it be messuage, cottage, medow, pasture, wood, or land arable; 3. it must say *Et adhuc extra tenent*: 4. *Expulerunt & adhuc extra tenent*: 5. one of these two words *manu forti*, or *cum multitudine*. *Dalt.* 183. *Cro.* 169. b. *Lam.* 153.

If error or insufficiencie be in the enditement taken before Justices of Peace, & restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *superfedeas* if the Sheriffe have not made restitution before. *Dalt.* 184. *Cro.* 161. a.

If restitution be made by Justice upon insufficient enditement, and it be removed into the Kings Bench, the court will restore the partie put out by the Justice of Peace. *Dalt.* 183, 184. *Cro.* 168. a.

1. No restitution upon an enditement to be made, if the party endited hath had the occupation or been

210 Restitution of stolen goods.

in quiet possession three yeares together next before the day of the enditement found, and his estate not ended, which the partie may alledge for stay of restitution, untill it be tried, if the other will traverse or denie the same. 31. *Elis. cap. 11 Dal.* 188.

2. *Certiorari.*

3. A traverse: *quare*; *Lam.* 158.

4. Insufficiencie of the enditement.

5. Insufficiencie of the Iurours not having 40 shill. land by the yeare. *Quare.*

Justice of Peace, upon enditement found, may give restitution as formerly to free-holders, to tenants for yeares by copie of court, guardians in Knights service, tenants by *elegit stat.* merchants or staple. 21. *Jac.* 15. *Dal.* 201.

Restitution of stolen goods.

He that hath goods stolen, if the felon be thereof endited and arraigned, and found guiltie thereof, or otherwise attainted by reason of evidence given by the partie robbed, or the owner of the goods, or other by their procurement, then the goods shall be restored though they never made fresh suit. *Dalt.*

And the Iustices have power to award writs of restitution. 21. *H. 8. 11. Lam.* 586. *Dal.* 262. *Cr.* 191. 2.

Executours shall have restitution after attainder or conviction upon evidence by their means given. *Dalt.* 262.

Three are robbed, restitution shall be onely so much for whose goods the felon was endited. *Dalt.* 263. *Cr.* 191. 2.

A felon stealeth from severall men, is attainted onely

Return.

211

onely at the suit of one; the King shall have the goods of those, at whose suit he was not attainted.

Dal. 263.

There be divers theeves; and onely one principall is attainted, the robbed shall have restitution.

Dal. 263.

If the felon sold the stolen goods in market overt, or in a fair, no restitution, except he that bought them were privy to the felony. *ib. Cro. 191. a*

No restitution of stolen goods, if he know not the felon. *Dal. 263.*

No restitution if the felon leaveth the goods and escapeth, and the Lord of the manour seiseth them.

Dal. 263.

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them wheresoever he findeth them. *Dal. 263. Cook 5.*

Return.

Recognisance taken upon *superseas* ought to be returned at the next Qu. Sessions. *Supplicavit* is to be returned into the court whence it came. *Lam. 107*

Return of a recognisance upon a *supplicavit*, is not of necessitie till *Certiorari*. *Lam. 109.*

Return of Jurours, *vide* Jurours.

Vide Recognisance, & Release, & Certificate.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and do accordingly execute or attempt the same.

Lam. 176, Dal. 192, Cro. 61. a.

Q 2

what

What assemblies shall not be said a Riot.

1. Sheriffe or Bailiffe leavie people to serve the Kingt writs. *Lam. 178. Dal. 192.*

2. Constable gathereth assistance of men with weapons to part an affray. *Lam. 178.*

3. A man threatened to be beaten in his house, assembleth company with force or otherwise, or threatened to be beat as he goeth to market. *Lam. 179. Dal. 194. Cro. 69. 2.*

4. Many assemble together, and they know not to what end. *Lam. 179. Dal. 192. Cro. 61. b.*

5. Many assemble at a Church-ale or at a Christ-masse dinner, and they suddenly fall out and fight. *Lam. 179. Dal. maketh quere, 193.*

6. A number of women and children under the age of discretion flock together for their own cause, unlesse moved by a man of discretion to do some unlawfull act. *Lam. 180. Dalt. 196.*

7. To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *Lam. 178.* yet if he use threatening words, as to say he will have it in spite of the other; or though he die for it, his doing may then become a riot. *Ibid. Dalt. 195.*

8. To meet to drink at an alehouse, to play at football, bucklers, bear, or bul-baiting, dancing, bowls, cards or dice, or such like disports. *Dalt. 193. Cro. 61. b. Lam. 178.*

9. To use harnessse on Midsummer day at night in London, or on May-day in the countrey. *Lam. 178. Dalt. 193. Cro. 64. b.*

The master intending a riot, taketh with him his ordinary servants who know not his intent

it is no riot in the servants. *Lam.* 179. *Dalt.* 192. *Cro.* 61. b. 62. 2.

A Iurie falleth out and fighteth, it is no riot. *Dal.* 192. *Lam.* 180.

If any assemble for any disports, as aforesaid, with intent to break the Peace, and make an affray, or do other outrage, it seemeth to be a riot in so many as come with such intent. *Dalt.* 193.

Quere if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dalt.* 193. But if by agreement they meet again and fight, it is a riot. *ibidem.* *Vide Crom.* 61. b. *Dalt.* 218.

It can be no riot, except there be an intent precedent to do some unlawfull act with force. *Dal.* 192. *Cro.* 61. 2.

Yet if a man go to Sessions or market with his servants in harnesse, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro.* 61. 2. *Vide 2. E. 3. cap. 4. Dalt.* 195.

What one J. of P. is to do in case of Riots.

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and binde them to their good behaviour. *Dalt.* 84.

A riot being done, Iustices of Peace can neither record the riot, nor make enquire, nor assesse the fine, nor award processe, nor meddle with it, but onely as a trespassse against the Peace. *Dalt.* 84. *Lam.* 181.

Iustices of Peace sitting in a judiciall place, and seeing a riot, may command them to be arrested, and recorded, and it concludeth the offenders. *Dal.* 84.

But a Iustice of Peace in another place seeing a riot,

riot, and recording it, the parties may traverse it. *ibid. Cro. 65. a.*

Every Iustice of Peace being of and in the countie, having notice of any riot, ought to execute the statute 13. H. 4. 7. viz. that the rioters be arrested, &c. and removed, otherwise the next Iustices forfeit 100 pounds apiece, and every other Iustice in whom there shall be default, fineable in the Starre-chamber. *Dal. 84, 85. Cro. 124. a.*

One Iustice of Peace may arrest rioters, enforce them to finde sureties for the Peace or good behaviour, or in default commit them to prison. *Dal. 84, 85, 87. Cro. 157. b. Lam. 181.*

A Iustice of Peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come; or else arrest them if they offer to break the Peace. *Dal. 85. Lam. 181.*

If the Iustice of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to finde sureties for the Peace, and his command by word is sufficient. *Dal. 85. Cro. 64. a. 148. b.*

One Iustice of Peace may cause all statutes for suppressing of riots to be put in execution. *Dal. 85.*

If the riot be notorious, it is not safe to stay complaint or information.

What two Just. of Peace may do in a riot.

They ought to send for the Sheriffe or Under-sheriffe, if none of them come, *Dal. 86. Lam. 327.* If one or two next Iustices do come, and not the Sheriffe or Under-sheriffe, each as come shall be excused of their fine of 100 pound. *Dal. 86. Lam. 327. Cro. 63. b.*

If one Iustice of Peace in the countie shall execute

cure the statute of 13.H.4.7. it shall excuse the next Iustices. *Dal.* 86. *Lam.* 326, 327.

Two Iustices of Peace present without the Sheriffe, are fineable if they do not all which by the statute of 13.H.4.7. ought to be done. *Dal.* 86. *Cr.* 63.

The particulars which the two next Justices of Peace with the Sheriffe or Under-sheriffe must do upon the statute of 13.H.4.7. Dal. 88

1 They must go to the place where the riot is. *Dal.* 88.

2 They shall take the power of the county (*viz.*) all above 15 yeares of age, under the degree of Barons, upon pain of imprisonment, fine, and ransom. *Dal.* 88. *Cr.* 157. *Lam.* 314, 315.

It is good to raise the power of the countie with certain information (though it be false and excused) or without information, if when they come they finde one. 88, 89. *Cr.* 64. b. *Lam.* 215, 316.

3 They shall arrest all such offenders, or cause them to be arrested, bring the force, commit to prison the rioters, and take away their weapons. *Dal.* 89. *Lam.* 326, 327.

And all such as come into the companie, if they be present, shall be arrested, imprisoned, and fined, as it seemeth. *Dal.* *ibid.*

Such as they meet coming from the place riotously arayed, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal.* 89. *Cr.* 63. a. *Lam.* 316.

The Iustices see the riot committed, and the rioters escape; they must record them, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that procelle may come from thence. *Dal.* 80. *Lam.* 318.

The Iustices may grant a warrant for such as they

saw escaping, to be bound to the good behaviour.
Dalt. 81. *Cro.* 196. a.

And so they may do upon information, but it is best to do it upon enquire, and so to fine them.
Dalt. 90.

In execution of the said arrest of rioters, the Iustices may justifie the beating, wounding, or killing of any the rioters which resist or will not yeeld.
Dalt. 90. *Cro.* 62. b. 158. b. *Lam.* 316.

4. After arrest the Iustice, Sheriffe, or Under-sheriffe shall record the riot in writing (*vix.*) all that shall be done in their presence against law, which ought to be formall and certain, as time, place, number, weapons, manner, &c. *Dalt.* 90. *Cro.* 63. a. *Lam.* 316, 317.

The form of the record, *vide Dalt. Lam.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders. *Dalt.* 90. *Lam.* 318.

If the rioters make a riot upon the Iustices, they may record it also. *Dalt.* 90.

Iustice records a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded. *Dalt.* 90. *Cro.* 63. a. 65. a. 130. a. *Lam.* 317.

The Iustices are presently to commit rioters to the goal, and the power of the countie ought to be aiding to the Sheriffe or Under-sheriffe. *Dalt.* 91.

None may commit the rioters but the Iustices who had the view. *ibid.*

If the Iustice, Sheriffe, or Under-sheriffe commit to prison the offenders, and do not record the riot, every of them loseth 100 pound. *Dalt.* 91. *Cro.* 61. b.

The said Iustice and none other shall assesse the fine upon the offenders, which by the statute of

1. H. 5. 8. ought to be of good value, that thereout the charges of the Justice and other officers may be born, yet must be reasonable and just. *Dal.* 91. *Cro.* 61. a. *Lam.* 317.

The fines must be imposed upon every offender severally, *Dal.* 91.

The fine must be estreated into the Exchequer, *Dal.* 91. and then to deliver the offender as it seemeth, *ibid.*

The J. as it seemeth, may out of the fines pay the charges of the said Justice, and of the Jurie who made the enquire for their diet and the Sheriffes fees; and the Iustices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12 pence when they pay their fines. *Dal.* 117, 118.

Or the Justice may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions, or Kings Bench. *Dal.* 91, 92.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the money remaining of the fine. *Dal.* 118.

Where Iustices of Peace are remisse in punishing the rioters, the Lords in the Starchamber may and do after assesse greater fines for the same riot. *Dal.* 94. *Cro.* 63. a.

If the riot was not committed in the presence of the Justice, or the rioters gone before their coming, two Iustices at least within one moneth next after must enquire thereof by a Jurie returned by the Sheriffe, and record the riot being found, which is to remain with one of the said Iustices. *Dal.* 92. *Cro.* 124. a. *Lam.* 321.

The form of such enquire, *vide Dal.* 9. *Lam.* 329.

En-

Enquirie shall not be unlesse the rioters be gone. *Dal. 92.*

It is not necessarie that one of the Justices of Peace be of the Quorum. *Dal. 92. Cro. 62. b.*

The enquirie may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100 pound: yet if the Jurie be charged within the moneth, and have day after to give up the verdict, the statute is not broken. *Dal. 92. Lam. 322.*

At the enquirie the Sheriffe or Under-sheriffe must be present, but then as ministers onely. *Dal. 92. Lam. 321.*

The Justices assembled to enquire within the moneth, the parties agree, and the Justices dismisie thereupon the Jurie, the Justices shall be fined though none will sollicite the Inquest or give evidence to the Jurie; for the Justices ought to proceed *ex officio*, seeing some of the Jurie may have knowledge of the riot, and they ought to make proclamation if any will give evidence. *Dal. 92, 93. Lam. 322.*

If at the parties request the J. dismisie the Jurie without enquirie, they are fineable in the Star-chamber to the King. *Dal. 93. T. R. 29.*

The I. may binde to the good behaviour the parties complaining of the riot, who caused them to meet and will not prosecute for the King, but have agreed it. *Dalt. 93.*

Though the Justices go not to see the riot, yet they may enquire within a moneth after. *Lamb. 321.*

After enquirie had and the riot found, the Justices have power to heare and determine the same (*viz.*) first to make out processe against the offender

offender under their own test. Secondly, to assesse the fine. Thirdly, to commit till they have payed the fine. Fourthly, to deliver them after payment of their fine or sureties taken by recognisance, receive their traverse, if the matter will serve, and dismisse them. *Dal. 93. Lam. 323.*

But the Iustices should send such enditement or inquisition to the next Quarter Sessions or into the Kings Bench together with the said traverse there to be tried. *Dal. 93.*

If the riot upon enquire cannot be found, the Iustices and Sheriffe must certifie into the Star-chamber, or Councell board, or Kings Bench, the whole fact and circumstance, with the names of the offenders, &c. *Dal. 94. Lam. 323, 324.*

The certificate must be made within a moneth after the enquire, or else it is of no force. *Dal. 95. Lam. 324.*

Though two Iustices with the Sheriffe see the riot, yet two other Iustices may make the enquire, and they all together, or the first two, or last two, with the Sheriffe or Under-Sheriffe, may make the certificate. *Dal. 95. Lam. 325.*

Where the severall certificates be made, or certificate and enquire do disagree, the best for the King shall be preferred. *Dal. 95. Lam. 325.*

If the Iurie finde but some guiltie, the Iustices may certifie the rest. *Dal. 95. Lam. 325.*

Any materiall thing lost out in the inquisition, may be omitted in the certificate. *Dal. 95.*

Quere if after enquire and before certificate the Sheriffe die, or one of the Iustices be put out of Commission, whether certificate be void. *Dal.* 95. *Vide Lam.* 326.

Upon the certificate of two Iustices and the Sheriffe, the Lord Chancellour may grant a *Capias* to attach the offenders. *Dal.* 95, 96. *Lam.* 318.

Upon default of the Iustices and Sheriffe in not executing the statute 13. H. 4. 7. the partie grieved may have a Commission to enquire of the riot, as also of the Iustices and Sheriffes default. *Dal.* 95.

Rivers.

Every Iustice of Peace is a conservatour of rivers within his countie, and may survey the weares in rivers that they be of reasonable wideness. *Lam.* 189.

Rogues.

All persons here under mentioned, being above the age of 7 yeares, may be punished as rogues. *Dal.* 97. 39. *El.* 4.

1 All going about begging about any pretence or colour, though licensed by any subject, except in some particular cases after mentioned. *Dal.* *ibid.* *Lam.* 442.

2 All going about the countrey using any subtile craft or unlawfull games, as fortune-tellers, jugglers. *ibid.*

3 All projectours, patent-gatherers, or collectors for prisons and hospitalls. *ibid.* 442.

4 All fencers, bearwards, common players of interludes,

interludes, and minstrels wandring abroad. *ibid.*
Lam. 443. 1. *Jac.* 7.

5 All pedlers, pettie chapmen, tinkers, and
 glassemen wandring abroad. 1. *Jac.* 17. *Dal. ibid.*
Lam. 443.

6 All wandring labourers able in bodie, refu-
 sing to work for reasonable wages, having nothing
 but labour to maintain themselves. *Dal. ibid.* *Lam.*
 443.

But such as are of any parish, able to work for
 the usuall wages taxed in those parts, are to be sent
 to the house of correction. *Dal. ibid.*

7 Poore of the parish begging otherwise then is
 appointed them, or begging by high-ways, *ibid.*
 are to be sent to the house of correction.

8 All pretending to be Egyptians, not being
 felons. *Dal. ibid.* *Lam.* 443.

9 Souldiers or mariners that begge, except
 souldiers or mariners having a testimoniall
 from a Justice of Peace neare the place of their
 landing, with the place of their dwelling or birth
 to which they are to passe, and a convenient time
 limited for their travell, and pursuing the said li-
 cense, 39. *Elis.* 4. or do counterfeit any certificate
 from their Generall, Governour, Captain, Lieute-
 nant, Marshall, Deputie, or Admirall. *Dal.* 97.

10 Diseased persons travelling to the baths and
 licensed, if they beg, or not licensed by two Iusti-
 ces, or not returning as they are limited. *Dal.* 97.
 98. *Lam.* 443.

11 A rogue once whipped, not performing
 the order appointed by his testimoniall. *Dal.*
 98.

12 A rogue going with a generall passport, not
 directed from parish to parish, *Dal. ibid.*

So a rogue carrying his own passport without a guide. *Dal.* 98.

13 Servant departing out of service without testimoniall, *5. El.* 4. or taken with counterfeited testimoniall. *Dal.* 98.

14 Persons infected with the plague, going abroad contrary to order. *1. Jac.* 31. *Dal.* *ibid.*

15 Persons able to labour and relieve themselves and families, that runne away or threaten to runne away and leave their charge to the parish, *7. Jac.* 4. *Dal.* 98.

16 Any calling himself a scholar, that hath gone about begging. *Lam.* 443.

17 Any pretending losse by fire or otherwise, that wandring beggeth. *Lam.* 443.

18 Any delivered out of goal, that hath begged for fee. *Lam.* 443.

Any Justice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall be taken begging, wandring, or misordering himself, and is declared by the statute, *39. Elis.* 4. to be a rogue, vagabond, or sturdie begger, and shall cause him so whipped to be sent from parish to parish by the officers of the same, the next way to the parish where such person was born, if it can be known; if not, to the parish where such rogue last dwelt before the punishment by the space of a yeare, there to labour; or not being known where he was born or dwelt, then to the parish through which he last passed without such punishment, to whom the Justice shall under his hand and seal make a testimoniall witnessing his punishment, day and place thereof, and whither he is limited to travell, and by what time.

And

And in case such place of birth and last dwelling be not found nor known, then such person shall by the officer of such village through which he last passed without punishment, be conveyed to the house of correction of the limit, or to the common goal, 39. *Elis.* 4. there to remain untill such person be placed in service for one yeares continuance, or not being able of bodie, till such person be placed in some almes-house of that place or countie. *Lam.* 204, 205.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the countie to which he is sent; and if there be none there, then to the goal untill the next Sessions: so if he misreport the place of his last dwelling by the space of a yeare, if it appeare not where he was born. *Lam.* 207. *Res.* 12. *Dal.* 98.

Husband and wife having an house, rogue about, they must be sent to the town where that house is; and so of an inmate. *Lam.* 207. *Res.* 3. *Dal.* 98.

Wife, and children under 7 yeares being vagrant are to be placed with the husband; if the husband be dead, then where they were born or dwelt last; *Lam.* 227. *Res.* 4, 9, 10. *Dal.* 98.

Children vagrant above three yeares old must be sent to the place of their birth. *ibid.* *Dal.* 98.

Vagrant persons and parents, with their children under 7 yeares of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after or running away, the children once settled must still remain there. *ibid.* *Dal.* 98.

Wife

Wife vagrant is to be sent to her husband, though he be but a servant. *Lam. 108. Res. 3. Dal. 98.*

Rogue, whose place of birth or dwelling cannot be known, hath wife and children under 7 yeares of age, they must be sent with the husband to the place where they were last suffered to passe unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction. *Lam. 108. Res. 6.*

Rogue sent to a town, and refused by the Churchwardens and Overseers to whom he is to be offered, is a forfeiture of 5 pound in the refuser. *Lam. 210. Res. 12, 14. Dal. 101.*

Rogue sent from the place where he is taken, by a generall passport, without conveying him from parish to parish, is a let in the taming of rogues, and a forfeiture of 5 pound. *Lam. 210. Res. 13. Dal. 101.*

Rogue going with such a passport, continuing a rogue, is to be punished by whipping. *ibid.*

By parents is to be understood father or grandfather, mother or grandmother, being able persons. *Lam. 210. Res. 16.*

By children, any childe or grandchilde being unable. *Lam. 210. Res. 15.*

Diseased persons living of almes, and travellers to Bath or Buxton for remedie, are to be licensed thereto by two Iustices of Peace; 39. *Elif. 4. Lam. 532.* yet may not beg, but must be provided of maintenance for their travell. *Dal. 100. 97, 98.*

Forfeiture of offences against the Statute 39. *El. 4.* upon conviction or confession by two witnesses before two Iustices of Peace, may cause the same to be levied by warrant under their hands and seals, by distresse and sale of the offenders goods. 39. *El. 4.*

4. *Lam. 331.*

All

All questions growing upon the statute of rogues, may be heard and determined by two Justices of Peace, 39.*Elif.* 4. *Lam.* 359. whereof one of the Quorum. *Dal.* 103.

Constable or tithing-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20 shill. for every offence; the like if they do not convey them away towards their dwelling or place of birth. 39.*El.* 4. *Lam.* 444. 1. *Fac.* 7. *Dal.* 102.

Rescous or hindring the execution of the statute 39.*Elif.* 4. forfeiteth 5. pound, and is to be bound to his good behaviour. 39.*Elif.* 4. *Lam.* 444. *Dal.* 101.

Minister of the parish not keeping a register of the testimoniall of rogues punished in his parish, and conveyed thence, loseth for every default 5 shill. 39.*Elif.* 4. *Dal.* 101. *Lam.*

Every one is to carry to the Constable such beggars as they shall know to come to their doores for almes, or lose ten shillings. 1. *Fac.* 7. *Dal.* 102.

Justices of Peace are to meet twice a yeare in their severall divisions, for the executing of the statute 7. *Fac.* 4. against vagabonds, and 4 or 5 dayes before by warrant to command the Constables of hundreds or towns by assistants of some of every town, to make a generall privie search by night, for finding and apprehending rogues to be brought before the Justices at their meeting by them, and punished, or sent to the house of correction. 7. *Fac.* 4. *Dal.* 103.

Constables at every meeting of the Just. of Peace for the execution of the statute of rogues, are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also between every meeting, and how many have
P. 100 been

been punished by them, or sent to the house of correction; & in default thereof, be fined under 40 shil. as by the most of the Just. shall be assessed. 7. *Jac. 4. Dal. 103.*

No man is to be put out of the town where he dwells, or sent to his place of birth or last habitation, but onely a vagrant rogue. *Dalt. 99. Resol. 9. Lam. 209.*

So of them whose terms of their houses are expired, and servants whose times of service are ended, for they must provide themselves houses anew, if they be not impotent for ever.

Dangerous rogues are to be banished, or condemned to the gallies by the Iustices at their Qu. Sessions. 39. *Elif. 4. Lam.*

Rogues by judgement of most of the Iustices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R, and then to be sent to their dwelling, if they have none, then to their last dwelling place where they dwelt for a yeare; or if that cannot be known, to their places of birth. 1. *Jac. 7. Vide plus House of Correction.*

Robberie.

Robbery is a violent taking away of any goods from any mans person, with intent to steal them, *Lam. 267.* and putting him in fear thereby, though the thing taken be but to the value of an half-peny. *Dalt. 227. Cro. 33. b.*

But if a felon take money from me in the highway, and shall not put me in fear, it is not robbery. *Dal. 222. Cro. 34. b. Lam.*

If a thief take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal. 227.* As,

As, 1. I cast my purse on the ground; and he taketh it away. *Dal. 227. Lam. 268.*

2. After assault he prayeth me to give him a peny, and I do so. *Dal. 227.*

3. If upon assault I deliver my purse. *Dal. 227. Cro. 34.a. Lam. 267, 268.*

4. If flying from a thief I cast my purse into a bush, and he doth after a day take it away. *Dal. 227. Cro. 34.b. 35.a. Lam. 268.*

5. If upon assault I flie away, and my hat fall, and the thief carry it away. *Dal. 227. Cro. 35.a.*

6. If a thief bid me deliver my purse (without any force used) and I deliver it, and he finding but two shillings in it, delivers it again. *Dal. 227. Cro. 34.b.*

7. If by threats he compell me to swear to bring him money, and afterward I bring him the money accordingly. *Dal. 228. Lam. 228.*

8. In some cases it is robberie, though the thief neither take it from my person, nor assault me.

As, 1. A thief taketh my goods openly in my presence against my will, the fear is the like as if it had been from my person. *Dal. 228. Cro. 34.a. Lam. 269.*

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear. *Dal. 228. Cro. 34.b.*

3. To make it robbery, the person must be put in fear. *Dal. 228. Cro. 34.b.*

4. Two come to rob me, and one asteth it, being out of the sight of the other, who after returneth to him; it is robbery in both. *Dal. 228. Cro. 34.a. Lam. 270.*

To assault one to rob him without taking any thing, is not robbery. *Dal. 227. Cro. 34.a.*

After a robbery committed, the hundred must answer the losse, if the robbers be not taken within 40 dayes: if it be done in the division of two hundreds, both hundreds & the franchises within them must be answerable. *Dal.* 128.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20 dayes next before the action, and brought upon his corporall oath before some one Iustice of Peace of the countie where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination if he confesse he knoweth any of them, then shall he before such action brought enter into recognisance before the said Iustice, effectually to prosecute such persons by indictment or otherwise according to the due course of the laws of this Realm. *27. Elis.* 13. *Lam.* 202.

After robbery committed, the robbed shall not recover against the hundred, except 1 with all convenient speed he give notice of the robbery to some inhabitant neare to the place where the robbery was committed.

2 He commence his action within a yeare and a day next after such robbery committed.

3 He be examined *ut supra*, *Dal.* 104. before a Iustice of Peace.

The whole hundred must answer the robbery, if the robber be not taken within 40 dayes, and the hundred wherein defect of fresh suit is, one moytie. *Dalt.* 129.

Any two Iustices of Peace in the hundred, one being of the Quorum, may assesse all towns and parishes in the said hundred and liberties therein, towards an equall contribution; which money the
Con-

Constable must deliver to the same Iustices within ten dayes after collection, and they upon request to those to whose use it was collected. *Dal.* 104. *Cr.* 197. a

And the hundred shall be assessed in like sort in default of pursuit of fresh hue and cry. *Dal.* 105, 129

Robbery in a house doth not charge the hundred, whether it be done in the day or in the night. *ibid.*

The hundred is discharged upon taking of any of the offenders by pursuit, *Dal.* 109. so if the partie robbed take any of the offenders after hue and cry made. *Dal. ibid.*

Robbing a house or any out-house, as a barn or stable in the day, to the value of 5 shill. Robbing a house by day or by night, any person being therein, and thereby put in fear. Robbing any person in any part of his dwelling house, the owner or dweller, wife, children, or servants being in any place within the precinct of the same, sleeping or waking. Robbing any booth or tent in fair or market, the owner, his wife, children, or servants being in the same, sleeping or waking. All these are as penall as Burglarie. *Dal.* 146. *Lam.* 265. 39. *Elis.* 15.

Rome, *vide* Pope.

Rout.

Rout is where three or more persons be disorderly assembled to commit with force, whether they put in execution their purpose or no, if they so do go, ride, or move forward after their first meeting. *Lam.* 176.

Sacrilege.

Sacrilege is the felonious taking of goods out of any Church or Chappell. *Lam.* 420.

Sacraments.

Three Iustices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and binde them all to give evidence at the day of triall; and they being found guiltie shall be imprisoned and fined. *1.Ed.6.1. Lam.* 366, 416.

Quere.

Three Iust. of Peace, one being of the Quorum, may award against one endited upon the statute of *1.E.6.1.* for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias ut legat*, into any shire. *1.Ed.6.1.*

Salt peter-men.

Salt peter-men cannot dig in the mansion house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family and goods by thieves and other malefactours. *Dal.* 177. *Cook* 11.82.

Schoolmaster.

To keep or maintain a schoolmaster which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocesse, the maintainer forfeits ten pounds for each moneth, and the schoolmaster to be imprisoned for a yeare without bail, and disabled. *23.Elif.1. Lam.* 419.

Any keeping a schoolmaster out of the Universitie, except in publick Grammar-school, and except in such Noblemen and Gentlemens houses as are not Recusants, and licensed by the Archbishop or Guardian of the Diocesse, both keeper and schoolmaster forfeits 40 sh, a day. *1.Jac.4.* Sedi-

One Justice of P. may within three moneths after the conviction of any seditious sectarie or Popish Recusant described in the statute of 34. *El. 1* require the submission of him to conformitie, and in default of such submission, may require him to abjure the Realm; and if he refuse, or after return without license, it is felonie. 35. *El. 1.* & 2. *Lam. 204.*

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Serving-men, *vide* Testimoniall.

Sessions of the Peace.

The Sessions of the P. is an assembly of any two or more Just. of P. one being of the Quorum, at a certain day & place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to heare and determine according to their power of causes within the Commission and statute referred to their charge. *Lam. 278.*

Sessions held without summons are good, but then none shall lose any thing for default of appearing. *Lam. 380, 381.*

Summons of the Sessions is usually by precept written to the Sheriffe, and by him to be returned at the Sessions. *Lam. 381, 385.*

Precept for summoning the Sessions may be made by any two Just. of Peace, one being of the Quor. but not the *Custos Rotulorum* alone; and summons cannot be discharged by *Supersedeas* of all the other Justices, but by *Supersedeas* out of the Chancerie. *Lam. 382, 383.*

Sessions held by one Justice of Peace is not good,

although it were summoned by two, and styled by their names; but by two sufficient Iustices it is good, though it be styled by the name of three. *Lam.* 383.

Quarter Sessions are to be held foure times in the yeare, (*viz.*) the first week after S. Michael, the Epiphanie, the clause of Easter, after the translation of S. Thomas the martyr, which is 2 Iuly. 2. *Hen.* 5. 4. *Lam.* 597.

The Easter Sessions by 33. *Hen.* 8. cap. 10. are to be holden as arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance. *Lam.* 383, 384.

Two Sessions at one time for one Countie lawfully summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good. 384.

At a generall Sessions all matters enquirable by Iustices of Peace, either by their Commission, or by statute, ought to be given in charge, otherwise a speciall Sessions, *Lam.* 623. and may be held three dayes. 606.

Two sorts of men ow their ordinarie attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court, and Iurours of the Countie. *Lam.* 386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputie. 387.

The Clerk of the Peace. 393.

Iurours for enquirie and triall. 396.

The Iustices of Peace, if need require, may keep a speciall Sessions by vertue of their Commission, or by the statute. 2. *Hen.* 4. 5. *Lamb.* 623.

Sessions of the Peace. 233

Summons of a speciall Sessions is for the most part for some speciall enquire, and not to the generall service of the commission. *Lam. 623.*

All matters within the commission or statute may at a speciall Sessions of the Peace be given in charge, yet they are at libertie to give in charge either all or any of them. *Lam. 623, 624.*

If two Iustices of the Peace, one being of the Quorum, make a precept to the Sheriffe for the holding a Sessions at such a place and day, and to return a Iurie before them, either Iustice can by their *Supersedeas* to the Sheriffe inhibite him, *Cro. 126.b.* but the King by his writ of *Supersedeas* may discharge it. *ibid.*

A man is bound to appeare before a Iustice of Peace within fourty dayes after, in the mean time a generall Sessions is kept, he ought to appeare before the Iustice at the Sessions. *Cro. 123.a. nu. 18.*

A Iustice commands one on pain of 10 pound by his precept to appeare at the next Sessions, and he doth not, no *Scire facias* shall go against him more then upon a *Sub poena*, but it seemeth he may be attached upon a contempt.

Sewers.

Commission of sewers being expired, 6 Iustices of Peace, two being of the Quorum, may for one yeare after execute the laws of Commissioners of sewers, unlesse a new be published. *13. El. cap. 9.*

Sheep.

To transport sheep beyond the seas without license, or to procure the same, is felonie the second offence.

offence. 23. H. 8. 16. 8. Elif. 3. Lam. 227, 425.

Any bringing, sending, or receiving into any bot-
tome any sheep alive out of the Kings dominions, or
procuring the same, loseth his goods, is to be impris-
oned for a yeare, and then in open market to lose
his left hand. 8. Elif. 3. Lam. 456, 457.

Any keeping at one time above 2000 sheep of all
sorts against the purport of the statute, loseth 4 shil.
4 pence for every sheep above 2000. 28. Hen. 8.
b. 13.

Sheriffe.

The *Custos Rotulorum*, or eldest of the Quor.
in his absence, is to appoint at Michaelmasse Sessi-
ons two Justices of Peace, whereof one of the Quo-
rum, to have the oversight and controlment of the
Sheriffe, Under-sheriffe, their officers and deputies,
and of their books and amerciaments in their coun-
ty Courts: and either of these two Iustices, or one
Iustice of the Peace, Lam. 201. may examine the
Sheriffe or Under-sheriffe and plaintiffe concerning
the taking and entring plaints in their Courts and
books against the statute 11. Hen. 7. 15. Dal. 107.
Lam. 201, 295, 600.

The particulars are, Dal. 107. Lam. 131.

1. If any plaints be entred in their books in any
mans name, the plaintiffe or sufficient Attourney
not being in Court.

2. If the plaintiffe finde not pledge to pursue his
plaint, (*viz.*) such as are known in that coun-
trety.

3. If they enter more plaints then one for one
trespasse or contract.

4. If they enter more plaints then the plaintiffe
suppoeth

supposeth he hath cause of action for against the defendant.

If upon examination the Iustices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King, and to the informer for every default, and the Iustices must certifie the examination to the exchequer within a quarter of a yeare, on pain of 40 shill. *Dalt.* 107.

The like for bailiffes of hundreds in not warning the defendants to appeare. *Dal.* 118.

Sheriffe to make once a yeare estreats to levie their shire-americiaments until the two Iustices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Iustices and Sheriffe, or Under-sheriffe under their seals. *Dal. ibid.*

The said two Iustices or one of them may examine the defaults of collectours of shire-americiaments, whose finding of default is a sufficient conviction and forfeiture of fourtie shillings, *prout contra.*

The said Iustices, upon information of the party grieved, may make like processe as in action of trespassse against the Sheriffe, &c. to appeare then to answer the said information or suggestion. *Dalt.* 108.

Sheriffe ought to be at the Sessions to return his precept and keep the prisoners. *Lam.* 395.

In these cases following the Sheriffe, &c. did forfeit 40 pounds, and treble damages to the partie grieved, 23. Hen. 6. 16. Lam. 430, 431.

1. Sheriffe that letteth his Bailiwicks or any of his hundreds,

2 Or returneth in any pannels any bailiffes, officers, servants, or servants servants.

3 Or refuseth to bail those that areailable, offering sufficient suretie.

4 Or taketh any obligation by colour of his office, but onely to himself, and upon the name of his office, and upon condition onely to appeare according to the writ or warrant.

5 Or having taken for an arrest above 20 pence.

6 Or above 4 pence for any obligation, warrant, or precept.

7 Or above 4 pence for the copie of a pannell.

8 Bailiffe for taking above 4 pence for making an arrest.

9 Goaler taking above 4 pence of any committed to his ward upon arrest or attachment.

10 Sheriffe or his ministers that shall levie any of the Kings debts, without shewing the partie the estreats under the Exchequer seal, shall be fined and pay trebble damages to the partie. 42. *El.* 39. 7. *H.* 43. *Lam.* 432.

11 Sheriffe or other his minister arresting, imprisoning, ransoming of, or levying any amerciaments by reason of any enditements or presentments made in the Sheriffes turn, without proceffe first obtained from the Iustice of Peace, or that hath not brought in such enditements and presentments to the Iustices of the Peace at the next Sessions, loseth 10 pound. 1. *El.* 4. *Lam.* 431.

Sheriffe or any other who maketh return of any writ, that returneth any Iurour, without true addition of the place of his abode, or within a yeare next before, or without some addition by which the Iurour might be well known, loseth 5 marks

to the King, and 5 marks to the partie. 27. *El.* 7.
Lam. 432.

Sheriffe or goaler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such. 4. *E.* 3.
10. *Lam.* 434.

Sheriffe, bailiffe, or other officer or person, refusing to pay over to the Churchwardens, &c. the moytie of the forfeitures by the statute of 4. *Jac.* against uttering of beer or ale to alehouse-keepers unlicensed, forfeiteth double value. 4. *Jac.* 4.
Lam. 434.

Iustice of Peace being chosen Sheriffe, his authoritie of I. is suspended during his Sheriffewick; but after another is chosen and sworn, his authoritie as a Iustice of Peace is as it was before without any new oath, except he be left out of the commission. *Dal.* 12. edit. 1626.

Shoes.

Making shoes, pantofoles, &c. contrarie to the rules prescribed in the statute, loseth 3 shillings 4 pence for every paire of shoes, &c. and the value of them. 1. *Jac.* 22. *Lam.* 465.

Shewing of boots, &c. on the sunday, with intent to sell them, loseth 3 shillings 4 pence and the value of them. 1. *Jac.* 22. *Lam.* 466.

Shooting, *vide* Archerie, Crosbowns, Partridges, Silk, *vide* Apparell.

Sope, *vide* Vessells.

Souldiers.

Souldier serving the King by sea or land, doth willing-

willingly give, purloyn, or put away any horse or harnesse wherewith he was set forth, or taken from other souldiers was appointed to him, upon complaint thereof to a Iustice of Peace, he shall be committed without bail till he have made satisfaction, unlesse he have been formerly punished by the Generall or other, or shew forth in writing under seal the lawfull losse thereof. 2. & 3. E. 6. 2. Lam. 194.

Souldiers passing out of the Realm to serve any forrain Prince, &c. not having before their passage taken the oath of alleagiance before the officer appointed thereunto, is felonie. 3. Jac. 4. Dalt. 247.

Souldier being a gentleman, or of a higher degree, or captain, or other officer in camp, passing to serve any forrain Prince, &c. before they be bound to the King with two sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracie against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felonie. *ibid.*

Souldier entred upon a record, and having taken presse-money, and that departeth without license, it is felonie, 1. H. 7. 1. 3. H. 8. 5. Dal. 247. or if they depart without license after they have served in the Kings warres, 2. Ed. 6. 2. Dalt. *ibid.* So of mariners and gunners that have taken presse-money to serve the King on the sea, and come not unto, or depart from the captain without license, it is felonie. 5. Elis. 5. Dal. 247.

In these cases following, by the statute of 39. Elis. 17. souldiers and mariners do become felons, Dal.247.

Such which set themselves not to some lawfull course of life, but wander up and down idly, not having a lawfull testimoniall (if they come from beyond sea) from some Iustice of Peace neare the place of their landing, expressing the place and time of their landing, the place to which they are to passe, and a time limited for their passage ; or having such a testimoniall, if they shall exceed the time limited.

To forge or counterfeit such testimoniall, or to have a forged testimoniall, knowing that it is forged.

Or being retained in service after his arraignment, &c. if he depart within the yeare without his Majesties license.

Poore souldier, or mariner, or sea-faring man suffering shipwrack, may have a license from a Iustice of Peace next to his landing, to passe to the place of his repair, and may ask and receive necessary relief in his direct passage within the time limited to him. 39. Elis. 4. 39. Elis. 17. Dal.99, 102. Lam.303.

Every parish is to be taxed to the relief of disabled souldiers, by the greater part of the Iustices at their Quarter Sessions next after Easter, so as no parish be above ten pence, nor under two pence weekly to be paid, so as the totall summe in any Countie where there shall be above 50 parishes, do not exceed six pence every parish. 43. Elis. 3.

The

The said taxation to be assessed within themselves, and in default thereof by the Churchwardens and petty Constables or the greater part of them, in default thereof by the Justices or Justice of Peace dwelling in the same parish, or if none be there, in the parish next adjoining. 43. El. 3.

In default of payment of the same assesse, the Churchwardens and petty Constables may levie it by distresse and sale, &c. and in their default the aforesaid Justices or Justice of Peace. 43. El. 3.

The Churchwardens and petty Constables are to pay over their collections to the high Constable 10 dayes before every Quarter Sessions, and the high Constables at every Quarter Sessions are to pay it over to the Treasurer. *ibid.*

If any of them make default, then the Churchwardens or petty Constables forfeit 20 shillings, and every high Constable 40 shillings to be levied by the Treasurer by distresse and sale for augmentation of stock. 43. El. 3.

Treasurer for maimed souldiers must be 10 pound in lands or 50 in goods in the subsidie, and continue but for a yeare, and within 10 dayes after Easter Sessions following to give account to his successour, in default thereof or for other misdemeanour in his office to be fined 5 pound or above by the part of the Justices of Peace. 43. El. 3.

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall muster-master or receiver of the muster-rolls, Treasurer, or controller of the navie under his hand, is to come to the Treasurer of the countie where he was prest, or if he were not prest, then to the Treasurer of the countie where he was born or last dwelt 3 yeares, if he be able to travell

travell so farre; or otherwise to the treasurer of the Countie where he landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Iustices may according to their discretions grant him a pension during his life, being not duely revoked or altered. 43. *Elif.* 3.

Treasurers are to make payment quarterly of such pensions as shall be granted by the most of the Iustices at the Q. Sessions under their hands, and by them to be fined if they refuse to pay them. 43. *El.* 3.

Pensions of souldiers and mariners not having born offices, are not to be above ten pound; under the degree of a Lieutenant fifteen pound; a Lieutenant twenty pound. 43. *Elif.* 3. Pensions are revocable or alterable at the discretion of the Iustices in the Qu. Sessions. 43. *Elif.* 3.

Treasurer where any maimed souldier or mariner shall arrive upon certificate without allowance, may give a testimoniall of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the generall muster-master shall be: and so may the treasurer of each Countie, leading him thither and from thence to the Countie where he is to have his pension. 43. *Elif.* 3.

Treasurer is to enter into a book money received and disbursed, with the parties names and certificate to whom it was paid. 43. *Elif.* 3.

Treasurer not allowing a certificate in the act of 43. *Elif.* 3, expressed, must endorse the cause thereof on the certificate. 43. *Elif.* 3.

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, he shall lose his pension and be delivered a rogue. 43. *Elif.* 3.

Souldier or mariner that cannot be relieved in the

Q

Coun-

County where he was pressed, by reason that whole taxation is employed, shall be relieved where he was born or dwelt the last three yeares at his election. 43. *Elis.* 3.

Overplus of the stock for maimed souldiers is to be employed by the greater part of Iustices at the Qu. Sessions, to such charitable uses as are set down in the statute for poore, except it be by them reserved for future pensions. 43. *Elis.* 3.

Starre-chamber.

The experience of Starre-chamber is the best guide and direction for a Justice of Peace. *Lam.* 175

Stollen goods.

After attainder upon evidence by the owner, the stollen goods are to be restored to the owner by writ of restitution awarded by the Iustices before whom the attainder was, 21. *H.* 8. 11. *Lam.* 586. *Dal.* 262. *Cr.* 191.2. *Vide* Restitution of stollen goods.

Stewards of Courts.

Stewards of the Sheriffes turn, Leet, or Pypowders, cannot grant suretie of the Peace unlesse it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a court Baron cannot do. *Lam.* 14. *Dal.* 2.

Stocks

The parishioners, and in their default the Churchwardens and Constables, are to assesse the tax imposed upon the parish by the Iustices at Easter Sessions, towards the relief of the prisoners in the Kings Bench, Marshalsey, Hospitalls, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may assesse the same; and the same Justice of Peace, or any other Justice of Peace in that limit, in default of the Churchwardens and Constables, may levie the same by distresse and sale of the offenders goods; and in default of distresse may commit such persons without bail till they pay the same. 43. *Elis. 2. Dal. 110.*

In all taxations observe these rules, *Dal. 110.*

1 The most reasonable taxation of land is by the yearely value, not the quantitie.

2 He that occupieth lands in his own hands in severall parishes, shall be charged in every parish proportionably for his land there.

3 The farmer shall be rated for the land, and not the lessor.

4 A man is not to be rated for his farm-rents, for that the occupier of the lands is chargeable for the same.

5 By goods in most cases a man may be rated, as well as by lands, but not both by goods and lands.

6 A man shall be charged for goods onely in that town where the goods be at the time of assessment: the Constable and major part of the parishioners, upon warning given in the Church; may make such taxations by law: *Dalt. 106. Cook 5, 6, 7.*
The like may be done by the Churchwardens and the greater part of the parishioners for Church-charges. *Dalt. ibid.*

If the greater part will not meet, the officers and such as will meet may tax. *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia. Dalc. 131. Vide Taxations.*

Subsidie.

Upon proof before two Justices of Peace that a subsidie man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam. 336*

Suggestion, *vide Information.*

Summons of the Sessions, *vide Sessions.*

Sunday.

All persons shall resort to their parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to be orderly and soberly during the time of Common prayer, preaching, or other service of God, or lose 1s pence for every offence to be levied by the Churchwardens there, to the use of the poore by way of distresse, *1. Eliz. 1. Dal. 80, 81. though he be Popish Recusant convict or not convict. ibid.*

If any subject do not resort and repair every Sunday to some Church or Chappel, or some usuall place appointed for Common prayer, and there heare divine Service according to the statute, *1. Eliz. 2.* it shall be lawfull for a Justice of Peace of that limit, upon proof by confession of the partie, or oath of witnesse, to call the partie before him, and

if

if he or they make not a sufficient excuse, to the satisfaction of the said Justice, then to give warrant to the Churchwardens of the said parish under his hand and seal, to levie 12 pence by distresse to the use of the poore for every default, and for want of distresse to commit the offender to prison, every offender to be called in question for one moneth after the offence. 3. *Jac. 4. Lam. 4. 18.*

None punished according to the branch of the statute of 3 *Jac. 4.* shall be punished by 1. *Elis. 2.* for the same offence. 3. *Jac. 4.*

There shall be no meeting, assemblies, or concourse of people for any sports or pastime out of their own parishes on the Lords day; nor Bear-baiting, Bul-baiting, Interludes, common playes, or other unlawfull exercises within their own parishes, upon forfeiture of 3 shillings 4 pence to the use of the poore, upon view of one Justice of Peace, confession of the partie offending, or oath of one witness, to be levied by warrant of the said Justice under his hand and seal to the Constable and Churchwardens; in default of distresse, the offender to sit in the stocks three houres. The offender to be questioned within one moneth. 1. *Car. 1.*

Carriers, waggoners, waynmen, drovers, shall not travell with horse, waggons, carts, or cattell upon Sunday, upon pain of 20 shillings for every offence. Neither shall any Butcher kill or sell any vic-tuall upon Sunday, on pain of 6 shillings 8 pence, upon view of one Justice of Peace, confession of the partie, or oath of two witnesses, the penaltie to be levied by the Constable or Churchwardens to the use of the poore by warrant from any Justice of Peace by distresse, or by any that will sue for the same at the Qu. Sessions in the same Countie with-

in fix moneths, his reward not to be above the third part. 1. *Car.* 1.

Shewing of boots on the Sunday, with intent to sell them, loseth 3 shill. 4 pence; and the value of the boots. 1. *Fac.* 22. *Lam.* 46.

Supersedeas.

Supersedeas is sufficient, though it neither name the sureties; nor contain the summe wherein they are bound; but it is better if it do both. *Lam.* 96. *Dalt.* 139.

Supersedeas delivered to the officer, if he urge new sureties, the partie may refuse; and if he be committed, he may have his action. *Lam.* 99. *Dal.* 139.

Supersedeas out of the Chancery will discharge suretie of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Justice of Peace, and an attachment lyeth against him if he surcease not, and he may be imprisoned and fined for it. *Lam.* 99. *Dal.* 140.

Supersedeas received by a Justice of Peace out of an higher court, he should forbear to make any warrant, or if one be made, to send out his *Supersedeas* to the Sheriffe or other officer to desist to put it in execution. *Lam.* 99, 100.

Supersedeas out of the Chancery is to be certified at the next Sessions, together with the recognisance for the Peace; if the *Supersedeas* do testifie that he hath found suretie in the Chancery onely unto a certain day, which day is after those Sessions if the *Supersedeas* come to his hands after his recognisance taken. *Lam.* 13. *Dalt.* 140.

Supersedeas for the good abearing, *quare* if it be granted by a Justice of Peace, *Lam.* 123. *Dalt.* affirmeth it, 164. *Cr.* 237. a.

A Sh-

A *Superfedeas* made by a Iustice of Peace, and returned under his seal, is a sufficient record to prove a recognisance taken for the Peace, and warrant to call the partie bound, and if he make default, to record the same. *Lam. 97.*

If a Iustice of P. will by a *Superfedeas* discharge a Precept for the Peace awarded by another by vertue of his office, and not by *Supplicavit*, the recognisance would be taken according to the form of the Precept. *Lam. 96. Dal. 139.*

Certiorari to remove a record is in it self a *Superfedeas* to the Iustice, yet the partie may have a *Superfedeas* to the Sheriffe that he arrest him not upon the Iustices record. *Lam. 515.*

Whether the Iustice *ex officio* after a *Certiorari* ought to award their *Superfedeas*, to stay proceeding upon their record, *quere Lam. ibid.*

An exigent awarded against one indicted of a trespasse before the Iustices of Peace, may be stayed by *Superfedeas* out of the Chancery, upon suretie found there to appeare the day in the Writ, though he be taken upon it. *Lam. 326, 327.*

So by *Superfedeas* granted by two Iustices of Peace, one being of the Quorum, testifying that he hath found sureties, *al. sine assidendo. ibid.*

By one Iustice of Peace, *Dal. 176. Cro. 334.* If a *Superfedeas* be directed to the Iustice of Peace and Sheriffe, the Iustice to whose hands it shall be delivered may keep it, and deliver the libell to the partie. *Dalt. 140.*

Superfedeas granted for the Peace or good behaviour out of the Chancery or Kings Bench, is void, unlesse it be upon motion in open Court, and upon sureties of five pounds in lands, or 10 pounds in goods in subsidie.

248. Supplicavit, Supremacie.

Whether the partie bound, sending the *Superſedeas* to the Sessions, be discharged of his appearance there, *quere Dal. 140, 141. Lam. 113.*

Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it. *Dal. 153.*

The Justice that receiveth the Writ, may make the Warrant to the Constable or other partie and indifferent, and if he refuse to finde sureties, to carry him to prison. *Dalt. 153.*

The partie attached can be bound onely before him that sent out the Warrant. *Dalt. 153.*

The Justice is to execute the *Supplicavit* as it directeth. *Dal. ibid.*

If the summes be left to discretion, it is safe to take good summes. *Dalt. ibid.*

After sureties taken the Justice may make him a *Superſedeas*. *Dalt. 153.*

The Justice needs not return the *Supplicavit*, nor make certificate, untill a *Certiorari* do come to him. *Lam. 10. Dalt. 157.*

Supremacie.

To refuse the oath of Supremacie, the first offence is *Præmunire*, the second Treason. *3. Ed. 1.*

Suretie of the Peace.

Suretie of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Judge of record) for the keeping of the Peace. *Dal. 127.*

Every

Every Iustice of Peace may take and command the Peace either as a Iudge or a Minister. *Dalt. ibid.*

Iustice of Peace may command suretie of the Peace, either of his own discretion, or at the prayer of another.

In what cases a Iustice of Peace may command suretie of the Peace by his own discretion, Dal. 128, 129.

1 One that maketh an affray upon the Iustice himself, or an assault.

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.

4 Such as in his presence contend onely in hot words.

5 Such as in his presence go or ride armed offensively, or with unusuall number of servants or attendants. And servants and labourers that bear any weapons contrary to the statute of 12. Ric. 2.

6 Any person by him suspected to be inclined to break the Peace.

7 If the Constable bring one before him that shall threaten to kill, maim, or beat another.

8 If the Constable bring one who in his presence attempted to break the Peace by drawn weapon, striking or assaulting another.

9 Whom the Constable findeth fighting or quarrelling in a house, he may break open the doore, and bring them before a Iustice of Peace to be bound.

10 He may make his warrant for such as have made an affray, and binde them to the Peace.

11 If one have received a wound, he may binde the one and the other till the wound be cured, and the malice over.

12 Such

12 Such as go or ride armed offensively to faires or markets, or wear or carrie dags or pistols charged.

13 Common Barrerours.

14 Rioters.

15 Him that standeth bound to keep the Peace, and hath forfeited his recognisance by breach of the Peace, and will not be bound again, till he be convicted and the forfeiture levied. *Dal. 129.* Yet *Crom. 141.* saith that he may be bound anew if he be onely convict for breaking the Peace.

16 Him that standeth bound, if his sureties be insufficient.

Iustice of Peace is to send to prison him that refuseth to give sureties, untill he finde sureties. *Dal. 129. Lam.*

17 Iustice of Peace may cause one to be arrested to finde suretie of the Peace against another, and grant a warrant for it; for he might have bound him of his own authoritie. *Dal. 129.*

At the request of another he may command suretie of the Peace, but must first take an oath of the partie that demandeth the Peace, that he standeth in fear of his life, or of some bodily hurt, or to have his house burnt. *Dal. 130. Lam.*

Causes to procure suretie of the Peace.

1 He that is threatned to be hurt in bodie, as to be beaten, wounded, maimed, or killed. *Dal. 130.*

2 He that feareth another will beat, wound, maim, or kill him. *Dal. 130.*

3 He that feareth another will burn his house. *Dal. 130.*

4 He that feareth that A will procure another to hurt him in his bodie, or burn his house. *Dal. 130.*

5 If a man lie in vwait to beat, kill, or hurt another. *Dal. 130.*

Quera

Suretie of the Peace. 251

Quare, if he threaten to burn his goods.

In what cases a man shall not have the Peace granted.

1 To threaten and to imprison him. *Dalt.* 130. *Lam. Crom.* 135. *Quare tamen.*

2 Where one is in fear that a man will hurt his servant, cattell, or other goods. *Dal.* 130. *Crom.* 138. a.

3 Because he is at variance with his neighbour. *Dalt.* 131.

4 Where there is no fear of present or future danger. *Dal.* 131. *Lam.*

5 For a battery past: yet a Iustice, if he see cause, may binde over the affrayers. *Dal.* 131. *Lam.*

Iustice of Peace may denie to grant suretie of the Peace, if it be upon meer vexation; yet if the partie will take his oath, it is not safe to denie it. *Dal.* 131.

Against whom suretie of the Peace may be granted.

Against a Knight or any person under the degree of a Baron. *Dal.* 133.

Against any Ecclesiasticall person not doing divine Service in the Church or Churchyard, or other place dedicated to God. *Dal.* 133.

One Iustice of Peace may grant the surety of the Peace against his fellow Iustice. *Dal.* 133.

One Iustice of Peace may demand the Peace against another man.

The wife may demand the Peace against her husband, if he threaten to kill her, or outrageously beat her, or have notorious cause to fear it; and the husband may crave the Peace against his wife. *Dal.*

133. 34.

The

The Peace may be granted to a feme-covert, or an infant under the age of 14 yeares, if he have discretion to crave the Peace; but they must be bound by sureties. *Dal. 134.*

A lunatick may crave the Peace, and have it granted him. *Dal. 134.*

It may be granted against one attainted either of treason or of felonie, *Dalt. 135.* or convict of heresie. *Dal. 163.*

It may be had against an excommunicate person, *Dal. 135.* and an abjured person. *ibid.*

It may be had against one attainted in *Premunire*, and against an alien either made denizon, or living in England.

It may be had against one dumbe and blinde, so against an impotent person.

Against whom the Peace cannot be granted,

1 It cannot be granted against any Nobleman, or Noblewoman. *Dal. 131.*

2 Against one *non sane memorie.*

3 Against one born dumbe and deaf, or made blinde and deaf accidentally: he may have understanding, and the Peace may be granted to him or against him. *Dalt. 163.*

How the suretie of the Peace is to be commanded and executed.

A Iustice of Peace may command the Peace by word, and by writing.

By word.

The partie being present in the presence of the Iustice of Peace threatneth, or maketh an assault or affray upon another, or doth any other act tending

Surety of the Peace. 253

to the breach of the Peace. *Dal. 136. Cro. 138. Lam.*

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Justice may command the other to finde surety. *Dal. 136. Cro. 138. b. Lam.*

The Justice in such cases may command the Constable or other known officer, or his own servant being present, to arrest such party to finde surety of the Peace, and may commit to the Goal such party refusing to finde surety. *Dal. Cro. Lamb. ibid.*

By writing.

The Justice by precept or warrant in writing under his seal directed to some known Officer, or other indifferent person, containing the cause and at whose suit, to the end the parties may provide the sureties and take them with them. *Dal. 136. Lam.*

The Justice may make his warrant to bring the party before him, but the usuall manner is to bring the party before the same Justice or some of the Justices of the County. *Dal. 136, 137. 288.*

Who may serve the Warrant, *vide Warrant.*

The Constable is first to acquaint the party with the matter in the Warrant; and if he refuse to go before the Justice to finde sureties, he may arrest him and carry him to the Goal, without carrying him to the Justice. *Dal. 137. Lam.*

If the party yeeld to finde suretie, the Officer is not bound to go up and down with him, but may keep him untill he can procure sureties to come to him; if afterward he make resistance, or offer to go away, he may by his warrant carry him to the Goal

Goal and set him in the stocks till he can get ayd to convey him to the Goal. *Dal. 137.*

The arrest is not justifiable except the Officer do carry him to the Goal that refuseth to finde sureties. *Cro. 171. b. Dal. 138.*

The party may go before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travell out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Justice, rather then to give the election to the delinquent. *Dal. 138.*

The party coming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to command them. *Dal. 137.*

If the party refuse before the Justice of Peace to finde sureties, the Officer by the first Warrant may commit him. *Dal. 138.*

The Officer is fineable if he arrest the party, and do not carry him before a Justice of Peace, if he be willing to finde sureties; secondly if upon refusall they arrest him, and do not carry him to the Goal. *Dal. 138.*

The party being imprisoned, the Justice of Peace may make him his libertie; first, if the complainant die; secondly, if he do enter suretie of the Peace. *Dal. 138.*

If the imprisoned have a suit depending in the common pleas, by some opinions, the imprisoned may be discharged by a writ of priviledge. *Quare tamen, Dal. 138. Cro. 38. a. Lam.*

A sworn and known Officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required. *Dal. 138. Lam. 89.*

If

If husband and wife be bound to appeare, and in the mean time to keep the Peace, and the husband onely appeareth, the recognisance is not forfeited. *Dal.* 146. *Cro.* 144. b.

Suspicion and suspects of felonie.

A suspect of felonie ought not to be arrested by a warrant from a Justice of Peace, unlesse he be indicted before; for if the bailiffe which serveth the warrant doth suspect him, he may do it of himself without a warrant; and without suspicion the Justices warrant is no warrant. *Lam.* 188. *Dal.* 289. *Crom.* 147. b. 148. b. 197. a. *Quare.*

Suspicion onely without felonie committed is no cause to arrest another. *Dal.* 228, 274. *Cro.* 154. a.

A felonie being committed, every man may arrest suspicious persons that be of evil fame, &c. and if such person make resistance, the other may justifie to beat him. *Dal.* 295.

The Constable or other person that arresteth one for felonie or suspicion, must himself suspect. *Dal.* 268, 296. *Crom.*

Swannes.

Taking away from his own or another mans ground Swannes of another mans, upon conviction and examination of witnesses is imprisonment for a yeare and a day, and losse of ten pound. *Lam.*

To steal Swannes unmarked, if they be *domiti*, and kept in a mans manour or private rivers, is felonie. *Dal.* 262. *edit.* 1626.

Swearing.

He that sweareth or curseth, being convicted by hearing of any Iustice of the Peace, or by oath of two witnesses, or confession of the partie before a Iustice of Peace, loseth 12 pence to the poore to be levied by distresse, the offence being proved within 20 dayes, or for default of a distresse to be set in the stocks three houres. 21. *Jac.* 20.

The offender being under twelve yeares of age, and not forthwith paying his 12 pence, by warrant of a Iustice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *ibid.*

Taxations, *vide* Stock of the Shire.

Taxations made for a Commonwealthe, as making or mending of bridges, high-ways, causeys, sea-banks, &c. shall be upon all persons though they assent not. *Dal.* 137. *edit.* 1626.

Talebearers, *vide* News,

Tanners, *vide* Leather.

Tavern-keeper.

Assignment of such as shall keep a Tavern to utter wine, is to be made at the generall Sessions, unless it be otherwise by especiall grant. 7. *E. 6. 3. Lam.* 614.

Testimoniall.

Testimonjall under the hand of one Iustice of Peace sealed, is sufficient to passe in hay-time and har-

harvest-time from one Countie to another. *Lam.* 190.

In all testimonials and passports, some assured marks of the partie, by which he may infallibly be distinguished and known from others, are fit to be specified. *Lam.* 206.

Testimoniall for a serving-man turned from his masters service, or whose master is dead, ought to be made by two Iustices of Peace. 27. *Elis.* 11. *Lam.* 331. *Dal.* 60.

Theft.

Theft is a fraudulent and felonious taking of another mans personall goods, in the absence of the owner, and without his knowledge. *Dalt.* 229. *Lam.* 272.

Theft is either Grand-larcenie, or Pettie-larceny.

Grand-larcenie is when goods stollen are above 12 pence, and it is felonie of death, except the partie be saved by his book. *Dal.* 229.

Yet if the goods be of more value, and the Iurie finde it did not exceed 12 pence, it is not grand-larcenie. *Dal.* 229.

Pettie-larcenie is if the goods do not exceed 12 pence, and is not felonie of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Iustice before whom the party is arraigned. *Dal.* 229.

For pettie-larcenie, the Iustice of Peace before whom the offender shall be brought, is not to punish him, but either to send him to the house of correction, or to bail him. *ibid.*

Pettie-larcenie is forfeiture of goods and chattels, Six pence, foure pence, and three pence, being taken

taken by one at severall times from one and the same person, may be put together in one enditement. *Dal. 230. Lam. 273.*

If two, or more, steal above 12 pence from one, it is felonie of death in every one. *Dal. 230. Lam. 273.*

The manner.

To make an act larcenie, there must be first a taking, secondly a carrying away. *Dal. 230. Lam. 277*

Yet it may be felonie though the offender came to it by the deliverie of the owner. *Lam. 278.*

As,

A Taverner setteth plate before his guests to drink in, and his guests carrie it away; it is felonie. *Dal. 230. Lam. 278. Crom. 35.b.*

A carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and imbezelleth them; it is felonie. *Dal. 230. Cro. 36.a. Lam. 279.*

A carrier taketh out parcels of the goods to him delivered; it is felonie. *Dal. 231. Crom. 36.a.*

A carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own use; it is felonie. *Dal. 231. Lam. 278.*

Where, after deliverie, the imbezelling is no felonie.

A carrier imbezelling the whole. *Lam. 278.*

A stranger borroweth a horse and rideth away.

A clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keep.

One delivereth money to A, to pay B.

Felonie in servants by force of statute, 5. Elis. 10.

Servant of the age of 14 years (other then an apprentice)

apprentice) to whom any money, goods, or chattels, &c. by force of the statute, by his master or mistresse shall be delivered to keep, of the value of 40 shillings or above; if he go away with, or convert the same to his own use, with intent to steal the same, or to defraud his master or mistresse, it is felonie, if it be prosecuted within a yeare. *Dal. 231, 232. Lam. 279.*

Wherein are divers cases.

A man receiveth of his master 20 pound in gold to keep, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felonie. *Dal. 232. Cro. 35. a. Lam. 280.*

One servant delivereth to his fellow servant to the value of 40 shillings of his masters goods, and goeth away with it, or converteth it to his own use; it is felonie. *Dal. 232. Cro. 50. a. Lam. 280.*

A servant maketh a garment of his masters cloth, and goeth away therewith, it is felonie. *Dal. 232. Cro. 50. a.*

Quare of barley converted into malt, or money melted into a piece of metall, *Dal. ibid.*

An obligation is delivered unto a servant, and he goeth away with the money received upon the same obligation; it is no felonie within the statute of 5 *Elis. 10.* for the master delivereth not the money. *Dal. 232. Cro. 35. b. 90. a.*

The servant carrieth his masters wares to market, selleth them and goeth away with the money, or converteth it to his own use; it is not felonie within the statute of 5 *Elis. 10.* *Dal. 232. Cro. 50. a. Lam. 280.*

A receiver receiveth rents, and goeth away with them, it is no felonie; for the statute is, where the

master delivereth to keep. *Dal.* 232. *Crom.* 50.a.

I deliver to my servant a horse to ride to market, or money to buy things or pay another, and he goeth away with it; it is no felonie at the Common-law, for it was of his masters deliverie. *Dal.* 232. *Crom.* 25.b. *Quere* if it be not felonie by 5. *Elif.* 10

A servant keepeth the key of his masters chamber doore, and taketh away above the value of 12 pence; it is felonie at the Common-law, for they were not delivered him. *Dalt.* 233. *Lam.* 279.

A guest taketh the sheets or other goods of the hoste feloniously into some other room of the house, it is felonie. *Dal.* 232. *Cro.* 35.a. *Lam.* 281.

Not enquirable.

A man feloniously taketh an horse, and is apprehended before he gets out of the close where he went. *Dal.* 16. *Lam.* 16.

A servant taketh away or spoileth his deceased masters goods; in default of appearance in the Kings Bench after proclamation, it is felonie. *Dal.* 233. *Crom.* 56.a. 33. *H.6.* 1.

Not enquirable before a Justice of Peace.

To take a horse feloniously, and be apprehended before he get out of the close. *Dal.* 233. *Lam.* 281.

Of what things felonie may be committed.

Of moveable goods, as money, plate, apparell, household-stuffe, &c. so of corn, hay, trees, fruit, &c. being severed from the ground. *Dal.* 233.

Of domesticall things, as horses, mares, colts, oxen, kine, sheep, lambes, swine, pigs, hennes, geese, ducks, turkeys, or any other domesticall beasts or birds of tame nature, though they runne or fly away

away out of the owners sight, the detainer is punishable by action. *Dalt.* 261. *edit.* 1626.

Of wilde nature, young pigeons out of another mans doye-house, young hawks or herons breeding in parks or severall grounds, fishes kept in a trunk or pond. *Dal.* 233. *Cro.* 36.b. *Stam.* 25. *Lam.* 274.

Quere of old doves in a dove-house.

So swannes marked, and at large, and tame deere marked and domesticall, if the taker know it to be tame. *Dal.* 233. *Cro.* 36.b. *Lam.* 275.

By statute it is felonie to hunt deere, or conies after some sort in park, forrest, or warren, or to take a tame beast or other thing in a park, by manner of robbery. *Dalt.* 234. *Vide* 3.E.4. 1.Hen.7.7. *Lam.* 275.

So to take away or conceal an hawk. *ibid.*

To steal the flesh of tame or wilde fowl dead, is felonie. *Dal.* 235. *Stam.* 25. *Lam.*

To pull wool off the sheeps backs, or to kill them for their skinnies. *Dal.* 225. *Cro.* 36.b. *Lam.* *ibid.*

A man may commit felonie in taking his own goods: as, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue. *Dal.* 136. *Cro.* 37.b. *Stam.* 26.a. *Lam.* 277.

*I lend or deliver my plate or goods to another who melteth my plate, or changeth the fashion of my goods; to take them feloniously is felonie in me. *Dal.* 236. *Cro.* 37.a. *Lam.* 237.

If a man pursue and take a felon that hath stollen his goods, taketh them and suffereth the thief to escape, he is no accessory; for he may agree *civiliter & criminaliter in initio*. *Dalt.* 253. *Lam.* 290. *Terms of Law.* *Cro.* 37.a. 45.b. 42.b. *P.R.* 131.

If the partie robbed take money, &c. of the thief,

thief, to the end that he shall not give evidence against him, whereby the thief escapeth, he is accessary to felonie of his own goods, *Dal.* 252. *Lam.* 290. *Cro.* *ibid.*

Quare, if a man having made complaint to a Justice of Peace, take his stolen goods again, and doth not prosecute the matter, whether it make him not accessary, for that he did once agree criminally, *Dalt.* 252.

Of what things felonie is not committed.

Things which are reall chattels. *Lam.* 275, 276. *Dalt.* 235.

To cut down any tree or corn, or pull any apples or carry them away. *Dal.* 253. *Lam.* 276. Being cut and gathered for one, and then for another to carry them away, it is felonie: or if a stranger cut at one time, and carry away at another time, it is felonie. *Dalt.* 234. *Cro.* 36.b. *Lam.* 276.

Lead upon an house or Church is part of the freehold. *Dal.* 234. *Cro.* 37.a.

Evidence of a mans land, indenture of lease, or other writings in box or out of box, cannot be valued. *Dal.* 234. *Lam.* 275.

To take away an infant in ward, is no felonie. *Dalt.* 135. *Lam.* 276.

Treasure trove or hidden, wreck of the sea, goods waived or strayed; for the owner is unknown. *Lam.* 276. *Dal.* 236.

But felonie may be committed by taking *bona ignota*, or *mortui & ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation. *Dalt.* 236. *Lam.* 276, 277.

What persons are chargeable in larcenie.

A woman covert by her self, her husband not known.

knowing thereof, committeth larcenie as principal, if she steal another mans goods; or as accessarie, if she receiveth the thief that stole them, or receiveth the stollen goods into her house, knowing them to be so, or locketh them up, and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soon as he knoweth it, forsake his house and her companie, and remain elsewhere, he shall not be charged for her offence. *Dal. 237. Stam. 26. P. R. 130. Lam. 282.*

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felonie in the wife. *Dal. 237.*

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods; it is felonie in the stranger. *Dal. 237. Cro. 35. b. P. R. 130.*

A servant stealeth by the compulsion of his master, it is felonie in both. *Dal. 237. Crom. 37. a.*

Who are not felons.

A wife stealeth by the compulsion of her husband, it is no felonie in her. *Dal. 236. Cro. 36. b. Lam. 282.* But to do murder by her husbands compulsion, is felonie in both. *Dal. 236. Cro. 37.*

A wife stealeth by commandment of her husband without constraint, *quare Dal. 236, 237. Stam. 26. P. R. 130.*

The husband and wife together steal goods, it is felony in the husband onely. *Dal. Sta. 26. Lam. 282.*

A wife stealeth goods delivered to her husband, it is no felonie. *Dal. 237. Cro. 37. a.*

The wife stealeth her husbands goods, and delivereth them to strangers, it is felonie in neither. *Dal. 237. Cro. 35. a. Stam. 27. Lam. 282.*

The wife receiveth the husband being a felon, & relieveth him, she is no accessory. *Dal.* 252. *Cro.* 42. b. *Stam.* 26.

An idiot, lunatick, dumbe and deaf person, and an infant, are chargeable in larcenie after the same sort as they are chargeable in homicide. *Dal.* 237. *Lam.* 282. *Vide* Manslaughter.

Threatning.

He that shall be threatned to be hurt in his bodie, to be beaten, wounded, impaired, maimed, killed, may crave and have the Peace against the other. *Dal.* 130. *Lam.* 82.

If a man be threatned to have his house burned, *quare* if he may have the Peace; *Dal.* 130.

To threaten to imprison a man, is no cause of the craving of the Peace; for the wronged may have his action of false imprisonment, his Writ *de homine replegiando*. *Dal.* 130. *Lam.* 82, 83. *Quere.*

To enter peaceably into an house, &c. and put out B, and presently threaten and say to B, that if he do come thither again to enter, he will kill him; this seemeth a forcible entrie: and if B come again to make his entry, then if the other shall threaten to kill him if he entreth, it is a forcible detainer. *Dal.* 170. *Cro.* 70. b.

Tile-making.

One Just. of P. may enquire, heare, and determine by his discretion, as well by examination of the offender as otherwise, the offence committed in tile-making, and asseſſe the fine therein limited, & may appoint men skilful to be searchers. *Quere* *tamen* whether one may do it alone. *Lam.* 193, 194. *Dal.* 123, 17. *E.* 4. 4.

Earth

Tile-making.

285

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tried from stones, veins, & chalk, and not to be wrought before March following, or lose double the value to the buyer. 17. E. 4. 4. *Lam.* 468.

Plain tile put to sale, is to be 10 inches and an half long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a thousand. 17. E. 4. 4. *Lam.* 468.

Roof tile must be 13 inches long, half inch and half quarter of an inch thick, conveniently deep, or lose 6 shill. 8 pence an hundred. *ibid.*

Gutter tile must be 10 inches and an half long, of convenient breadth, depth and thicknesse, or lose 2 shill. an hundred. *ibid.*

Searchers of tile, for every default in searching, lose 10 shill. *ibid.*

Tipling.

The Inne-keeper, Victualler, or Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10 shill. 1. *Jac.* 9. 7. *Jac.* 10. 1. *Car.* 4. *Lam.* 192.

Any continuing tipling in an Inne, Victualling-house, or Alehouse, shall forfeit 3 shill. 4 pence to the poore, or not being able to pay the same, shall sit in the stocks 4 houres. 1. *Jac.* 9. 7. *Jac.* 10. 21. *Jac.* 10. *Lam.* 193. *Vide* Alehouses.

Tithes.

Two Justices of Peace, one being of the *Quorum*, upon complaint by any competent Judge of tithes,

tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to be attached and committed to ward, till he finde surety by recognisance to obey the sentence and processe of the Judge.

37. H. 8. 20. 27. *Elif.* 11. *Dalt.* 113. *Lam.* 357.

Upon complaint in writing by an Ecclesiasticall Judge that hath given definitive sentence in case of tithes, against one wilfully refusing to pay the tithes or summe of money adjudged, two such Justices of Peace may cause the party to be attached and imprisoned, till he finde surety to perform the sentence. 32. H. 8. 20. *Dalt.* 113. *Cro.* 197. 2 *Lam.* 357.

Toll.

Miller taking Toll by heap measure, is to be fined. 31. Ed. 1. *de pistoribus.* *Lam.* 461.

Miller taking excessive Toll, (*viz.*) more then the twentieth or twenty fourth part of the Corn according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall be grievously amerced; 51. H. 3. *Cro.* 92. 2.

A Miller shall have toll of a bushell of hard Corn 3 wine pints, and of a bushell of Malt but one pint, if the Corn be brought to the Mill; for that a Mill will grinde 3 bushels of Malt as soon as one bushell of hard Corn, *Cro.* 92. 2. *Quare*, for 51. H. 3. doth not expresse so much. *Vide Dalt.* 117.

Toll-gatherer for himself taking above a peny for one contract or entering the parties names, and that in the same place onely where the market or fair is, and between 10 of the clock in the morning and sunne setting, loseth 10 shill. and is to answer the

the party grieved. 2 & 3. P. & M. 4. Lam. 471, 472.

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testify he knoweth the sellers name, mystery & dwelling-place, and there to enter them with the true price of the horse, or loseth 5 pound. 3. Elis. 12. Cro. 19. 2. Lam. 472.

Any giving testimony to the toll-taker, unless he do truly know the same, loseth 5 pound. *ibid.*

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying 2 pence for the same, loseth 5 pound. *ibid.*

Transportation.

Every man may transport corn, it being at the prices following, except it be forbidden by proclamation. 1. Jac. 25.

Wheat	} } } } a quarter	26 shill.
Rye and Pease		15 shill.
Barley and Oats		13 shill.

Every subject born within the Realm, when the prices of corn at the times, places, and havens when and where the said corn shall be brought, shipped or laden, exceed not the rates following, may carry and transport of his own, and buy to sell again in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corn from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty in English vessels, or carry or sell in English vessels, or carry

carry or sell in other places within the realm, except where such transportation shall be forbidden by the Kings Proclamation. 3. *Car.* 4.

Whear	} a quarter	22 shill.
Rye,		
Pease and		20 shill.
Beans		
Barley		16 shill.

Every man may transport any beer, when the price of a quarter of Malt exceedeth not 16 shill. 3. *Jac.* 11.

Traverse.

Traverse is the denying of the chief matter in an enditement. *Lamb.* 540.

Traverse upon a forcible entry or detainer found upon presentment, *quare* before whom the traverse is to be made or tendred, *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Justice of Peace must make the restitution by the statute of 8. *H.* 6. or else deliver or certify the presentment in the Kings Bench. *Lam.* 158. *Dalt.* 45. 93. 189.

Traverse lyeth where one Justice of Peace alone will take upon him to record a Riot that he seeth, and the party shall not be concluded thereby. *Lam.* 182.

Traverse of an enditement of felony or treason is not usuall. *Lam.* 541.

Traverse of an enditement may be before the Justice of Peace. *Lam.* 542. If the Court where the presentment is, cannot award processe thereof, it cannot traverse the presentment, as a leet of bloudshed. *Lam.* 542.

The

The Court may award processe *ad respondendum* upon an enditement, and may take a traverse of it. *Lam. 543.*

Presentment of bloudshed found in the Sheriffs turn, and sent to the Justice of Peace, cannot be traversed before them. *Lam. 542.*

One of the enquests presents himself, it is not traversable. *Lam. 543.*

Travelling beyond the seas.

Officer of Ports, or owner of a vessell, suffering any woman or childe under 21 yeares of age, except Saylers shipboyes, Apprentices or Factors of Merchants in their trades, to go, or carying any of them beyond sea without licence of the King or six of the Privie Councell under their hands, such Officer of the Ports forfeiteth his office and all his goods, and the master of the vessel his vessell and imprisonment without bayl for 12 moneths, and loseth also all his goods. *1. Jac. 4.*

Any subject going beyond the seas to serve any forrain State, not taking the oath of alleageance before the Controller or Customer of the Port, or either of their deputie or deputies before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every yeare, or lose 5 pound for every oath not certified. *3. Ja. 4.*

Any Gentleman, or of an higher degree, or Captain, or other Officer in the army before his going beyond sea to serve any forrain Prince or State, must be bound by the Controller or the Customer of the Port, with two sureties allowed by the Officer, unto the King in 20 pound, with condition not to be reconciled to the Pope, nor to practise

practise any thing against the King, but knowing any thing to reveal it: the same bond to be by them registred and certified into the Exchequer once every yeare, or lose 5 pound for every default. 3. *Jac. 4.*

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without license of the King or six of the Privie Counsell, (whereof the principall Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, untill he or they being 18 yeares old or above, take the oath of Alleageance before one Iustice of Peace of the County where the parents dwelt or dwell: And in the mean time the next of kinne, being no Popish Recusant, to enjoy them till he shall conform to take the said oath of Alleageance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the mean profits, and in reasonable time to make payment thereof. And the senders lose 100 pound, one third part thereof to the King, another to the suitour, another to the poore. 3. *Jac. 5.*

Vide Transportation.

Traveller.

Innekeeper or Alehouse-keeper refusing to lodge a traveller, Iustice of Peace or Constable may compell him. *Quere how, viz. to present the offence at the Assises or Sessions. Dalt. 25.*

St. James Lee delivered that the Innkeeper or Alehouse-keeper may for the same be endited, fined, and imprisoned, or the party grieved might have his action. *Dalt. 28. Ed. 1626.*

Treason.

Treason is a grievous offence done or committed against the King in his person, the Queen his wife, his children, Realm, or authoritie. *Dalt.* 198.

As,

To compasse the death of the King, Queen his wife, or of their eldest sonne and heire; or to intend any of their deaths, though it be not offered. *Dalt.* 198.

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sonnes wife. *Dalt.* 198.

To levie warre against the King in his Realm. *Dalt.* 198.

To conspire to levie warre against the King. *Dalt.* 198.

To conspire with a Governour of another countrey to invade the Realm. *Dal.* 198.

To kill one that is sent on the Kings message. *Dalt.* 198.

To encounter in fight and kill such as be assisting to the King in his warres, or come to help the King. *ibid.*

To aid the Kings enemies in his Realm. *Dalt.* 199.

To counterfeit the Kings great seal, signet, manuell, Privie-signet, or Privie-Seal. *Dalt.* 199.

To take an old seal and put it to a new patent, *quare* whether treason or misprision, *Dal.* 199. And so of those that without authoritie set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seal, and so get it sealed. *Dal.* 199.

To counterfeit the Kings coin, or any coin current within the Realm. *Dal.* 199.

To bring in any false money, knowing it to be false. *Dal.* 199. If

If he which hath the Kings warrant to coin, doth coin money in England, Ireland, or elsewhere lesse in weight then ordinarie, or coineth false mettall. *Dal.* 199.

All counsellors, procurers, consenters, or aiders of any the forenamed treasons, are within purview of the statute of 25 *Elis.* for in treason all offenders are principall. *ibid.*

To kill the Kings Chancellour, Treasurer, Justice in Eyre, of Assise, of Oyer and Terminer, being in his place and doing his office, is high treason. *Dal.* 199.

To extoll the authoritie of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellors, aiders and maintainers thereof, the first offence is *Premunire*, the second treason. 1. *Elis.* 15. 5. *Elis.* 1. *Dal.* 100. *Lam.*

So to bring over any books that shall maintain, set forth, or defend such authoritie, and the readers and bearers that shall justifie them. *Dalt.* 200.

So deliverers of such books to others, with allowance and liking of the same. *Dal.* 200.

So the printers and utterers of such books be all within the meaning of the statute 5. *Elis.* 1. *Dalt.* 201.

Refusing the oath of Supremacie, the first offence is *Premunire*, the second offence treason. 5. *Elis.* 1. *Dal.* 201. *Lam.*

To obtain from Rome, or by any authoritie from thence, any Bull or writing to absolve and reconcile such as wil forsake their obedience to the King and yeeld it to the Pope, or give or take absolution by colour of such Bull, or publish or put in ure such Bull. 13. *Elis.* 2. *Dal.* 201.

To absolve, perswade, or withdraw any subject from

from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsell, or aid them that do it, is Treason. 23. *Elis.* 1. 3. *Jac.* 4. *Dalt.* 201. *Lam.*

To be wilfully absolved, perswaded, withdrawn, or reconciled to promise such obedience, or to procure, counsell, aid and maintain the same, except within six dayes after their return into the Realm they submit according to the statute, 3. *Jac.* 4. *Dalt.* 201.

For Jesuite, Priest, or other Ecclesiasticall person (made by authoritie from the Pope) to come into, or remain in any of the Kings dominions, contrary to the statute, 27. *Elis.* 2. is Treason.

To compasse the death of an usurper of the Crown, is Treason, for which the offender may be arraigned in another Kings time. *Dalt.* 122.

To intend to deprive, depose, or disinherit the King, or say he will be King after the King dieth. *Dalt.* 198, 222.

To set at large unlawfully any committed for Treason, is Treason by the Common law. *Dalt.* 225.

One imprisoned for felonie breaketh prison, whereby a traitour escapeth; it is Treason in him by the Common law. *Dalt.* 225.

Voluntarily to suffer one to escape that is committed, or onely under arrest for Treason, is Treason by the Common law. *Dalt.* 225. *Stam.* 32.

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26. *H.* 8. 13. 3. *Ed.* 6. 11. his lands entailed, and his wife her dower, saving in certain cases. *Dalt.* 229.

Judgement and condemnation of a woman in

case of Treason is to be drawn on a hurdle to execution, and burned. *Dalt.* 229. *Stam.* 182.

Trespasse, *Vide* Hedgebreakers.

Triall.

As well Noblemen as Gentlemen in cases of Felonie or Treason, or misprision of Treason, are to be tried by their equals. *Lam.* 539.

In Riots, Routs, unlawfull assemblies and forcible entries, Nobilitie shall be tried by common jurors, *Lam.* 539.

All forrain Pleas triable by Jurie, and pleaded by any indicted of Treason, Murder or Felonie, shall be tried in the countie where the partie is arraigned, and by jurors of that countie. 22. *H.* 8. 14. 32. *H.* 8. 23. *Lam.* 552.

Aliens indicted of Felonie or Murder, must be tried *per medietatem lingue*. *Lam.* 554.

Peere of the Realm indicted of Treason upon the statute 3. *Jac.* 4. is to be tried by his Peers. 3. *Jac.* 4.

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tried within the Realm. 35. *H.* 8. 2. *Dalt.* 204.

Indictment at the Turn to be certified to the Justices of the quarter Sessions. *Vide* Certificate.

Sheriffs Turn to be holden within a moneth after Easter, or within the moneth after Michaelmas. *Lam.* 504.

Estreats of the Justice of Peace of Fines assised upon presentments in the Turn being inrolled and indented, are to be levied by the Sheriffe to the use of him that was Sheriffe at the time of presentment. 1. *Ed.* 2. *Lam.* 505.

Vagabonds,

[Faint, illegible text at the top of the page]

Vagabonds, Idle Rogues.

Venire facias.

Justice of Peace may award a **Venire facias** against the sheriff, to command a bill upon the first oath.

Justice of Peace cannot award a **Venire facias** tot matronas, to know whether a felon be with child or no. *Lam. 952.*

Vessels.

Vessels of ale and beere are to be made of seasoned wood, with the mark of him that sealed it. *Lam. 460.*

Every Barrell for beere and every Barrell for ale, and so every lesser vessel by 23 H. 8. 4. ought to contain under pain of 3 shill. 4 pence for each default,

Barrell 36.	}	Ale	{	32 16 8	} Gallons.
Beere { Kilderkin 18.					
Fiskin 9.					

But now by the statute 1. Jac. 9. ale and beere shall be sold by retail by one and the same measure, namely by the ale-quart. *Dalt. 119. Op. 94. b.*

Wine { Tunne 252.	}	Gallons.
Pipe 136.		
Org. { Hogshead 63.		
Barrell 32 and half.		
Mony. { Bundles 16 and half.	}	Dalt. 119.

But *Crompton 94. b.* saith, *Popham* chief Justice saith

saith that the measure of wine and ale should be all one, and that so it was agreed by the Justices according to the standard of the Exchequer. But note, saith *Crompton* there, that the ale quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there should be a nick in the top of the wooden kan, where the measure should be, to which nick the ale should come. *Cro. 94. b.* And so *Mr. Wallis* Clerk of the Qu. market told him January 25. 1588.

Butter is to be of the same content that Sope is.
120.

Herring the barrell, half barrell, firkin, shall be of the same content that ale is, namely the barrell 32 Gallons, &c. 13. *Edw. 1. Dal. 120.*

Sope and butter shall be of the same content with ale, and the empty barrell not to be in weight above 26 pound, and for the other vessels in proportion. 23. *H. 8. 4. Dal. 119. Lam. 461.* The penalty is 9 shill. 4 pence.

Victualls and Victuallers.

If Butcher, Fishmonger, Innholder, Tipler, Brewer, Baker, Poulterer, or other seller of victuall do sell at unreasonable rates and not for moderate gain, they lose double value. *Lam. 454.*

Brewer selling drink at higher prices then have been appointed by the Justice of Peace, loseth after the rate of 6 shill. a barrell. 23. *H. 8. Lam. 455.*

Conspiracy or oath taken or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any mystery, or any of them, not to sell but at prices agreed between them, the first offence is 10 pound or 20 dayes imprisonment; the second,

Vicuallſ and Viouallery. 277

ſecond, 20 pound or Pillory; the third, 40 pound or loſe in care. 2. Ed. 6. 13. Lam. 455.

To ſell ſwines fleſh mezelled, or fleſh that dyed of the murrain, or other corrupt viuall. Stat. de piſtoribus, C. 7. 51. H. 3. Lam. 455.

Any, except viuallers in their hobſes, buying to ſell again by retail butter or cheeſe, unleſſe it be in open Faire or Market, loſeth double value. 3. Ed. 6. 21. 14. Eliſ. 11. 27. Eliſ. 11. Lam. 456.

Proceſſe upon the ſtatute of 23. H. 6. 13. againſt viuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of ale or beere unto any unlicenſed Alehouſe-keeper, other then for neceſſary proviſion for his own houſhold, loſeth after the rate of 6 ſhill. 8 pence a barreſl, one moiety to the poore, the other to the informer to be heard and determined at the Quarter ſeſſions. 4. Jac. 4. Lam. 460.

The Officer levying the penalty of 4. Jac. 4. and not delivering the moiety to the Churchwarden or Overſeers of the poore, or not diſtributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. 4. Jac. 4.

Vicualler is within the ſtatute, 1. Jac. 9. 4. Jac. 5. Cro. 4.

Vide Transportation, Alehouſes, Tipling.

Alehouſe-keeper without liſenſe upon view of one Juſtice of Peace, confeſſion of the offender, or oath of two witneſſes, loſeth 20 ſhill. to the poore of the pariſh, the penalty to be levied by the Churchwardens or Conſtable by diſtreſſe by warrant of one Juſtice of Peace, and to be apprized and ſold within 3 dayes: in default of diſtreſſe or non-payment within 8 dayes, the offender to be whipped as the Juſtice before whom the conviction

278 Victuals and Victuallers.

was shall appoint for the second offence to be sent to the house of Correction for one month; for the third offence to be sent and remain in the house of Correction till deliverance by order of Sessions. 3. Car. 3.

Constable or other officer not executing the punishment is to be sent to the Goal till he cause the offender to be punished, or to pay 40 shill. 1682.

Underheriffs.

Subs. Rotularum, or 4 Justices of the Peace, one to be *Quorum*, may give unto Underheriffs before they exercise their office, the oaths of *2 H.* of Supremacy and 27. *Edw. 12.* touching their office; to of their deputies and Clerks, or any other meddling with returning of writs or execution of process into any Court of record. So of Bayliffes, any of them executing their office before such oaths taken, lose 40 pound. 17. *Edw. 12.* Lam. 358. 431. 433.

Underheriff or his Clerk or deputy doing any thing against their oath, lose treble damages to the party. Lam. 433.

Unlawfull Games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cays, tennis, casting the stone, football, or other unlawfull game now invented, or hereafter to be invented shall be suspected to be used, and may arrest the keeper of every place, and may imprison them untill they finde sureties by recognizance no longer to use such house, game, play, alley or place. 33. *H. 8.* 9. Lam. 191. Dall. 41.

Cr. 179. 131. a. 196. a. 197. b. Lam. 349. 479.

Iustice of Peace may arrest and imprison such players till they be bound no more to play at such game. *Lamb. 192. Dalt. 48. Cr. 172. a. b. Lam. 349. 479.*

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman, other then of a Nobleman or of him that may dispend 100 pound by the yeare, playing within the precinct of his masters house, shall not play out of Christmasse at any unlawfull game, or in Christmasse out of the house or presence of his master. *33. H. 8. 9. 12. R. 2. 7. & 10. Lam. 479. 17 shill. 8 pence every time. Quare, if other games besides those prohibited 33. H. 8. 9. be unlawfull, as the morrice & other open dances, bearbaytings, common playes, which seem to be prohibited by 39. Elis. 4. Dalt. 48, 49.*

All offences against the statute of unlawfull games may be heard and determined at the Quarter Sessions, Assizes, or leet within which they shall happen. *Wid. plus, Sunday.*

Unlawfull assemblies.

An unlawfull assembly is of the company of 3 or more persons disorderly coming together, forcibly to commit an unlawfull act, as to beat a man, or to enter upon his possession or the like. *Lam. 271. Dalt. 191. Cr. 68. b. P. R. 25.*

First, An unlawfull assembly it is, onely to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward towards the executing of such

280 Unlawfull assemblies:

act, whether it be done or no, is a Rout. Thirdly, to execute such thing, is a Riot. *Dalt. 191. Lam. 175, 176.*

In an unlawfull assembly, Rout or Riot, two things are common and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actual and expresse violence to affright peaceable men, or imbolden light and busie bodies by their examples. *Lam. 176, 177.*

There be three degrees of seditious and riotous assemblies: the first from three to twelve; the second of 12 or more; the third of 40 and upward. *Lam. 183. 1. Elis. 17.* Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance. *Lam. 184.*

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24 houres after reveal the same. *Lam. ibid.*

Vide Forcible Entry, Riots.

Usury.

Corruptly to contract for more then 8 pound in the hundred, for forbearance for one year, loseth treble value of the moneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21. *Jac. 17.*

Scriveners taking above 5 shill. for procuring 100 pound, and a bond 12 pence, forfeit 20 pound. *ibid.*

Uclawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Iustice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distresse (for insufficiencie) are to be outlawed. *1. Ed. 3. 5. Lam. 522.*

After Utlawry the Iustice of Peace can award no processe, but must certifie the Utlawry into the Kings Bench. *Lam. 521, 522.*

One Utlawry of felony before a Iustice of Peace doth appear and saith he was in the Kings service beyond sea under such a Captain, or in prison in such a County; the Iustice cannot write to the Captain or County. *Marrow. Lam. 552.*

Wages.

Rates of wages of servants and labourers are to be made by the Iustices of Peace at Easter Sessions, and by them to be ingrossed in parchment under their hands and seals, and after it shall be lawfull for the Sheriffe of the said county to cause proclamation to be made of the severall rates so rated in so many places of their severall authorities, as so them shall seem convenient, and as if the same had been set down by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majestie: and certificate thereof into the Chancery. *1. Jac. 6. 5. Elis. 4. 39. Elis. 1. 2.*

Any giving wages contrary to the rates appointed and proclaimed, loseth 5 pound. *5. Elis. 4. 1. Jac. 6. Lam. 474.*

Every Iustice of Peace not having lawfull excuse testified by oath of one that is in subsidy 5 pound, &c. that shall not assemble at Easter-Sessions to rate the wages of servants, &c. shall lose 10 pound.

1. Elis. 4. Lam. 632.

Any

Any having authoritie by *5. Elis. 4.* to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, week, moneth, or yeare, or by great. *1. Jac. 6.*

No penalty for not certifying the rates of wages into the Chauncery, according to the statute of *5. Elis. 4.* if they be daily proclaimed. *1. Jac. 6.*

Rates of wages ingrossed in parchment are to be kept by the *Custos rotulorum*; if in a corporation, amongst the records thereof. *1. Jac. 6.*

Any two Iustices of Peace may imprison without bayl the master for 10 dayes for giving, and the servant, workman or labourer for taking greater wages then are assessed by the Iustices of Peace, and proclamation thereof made in that county. *5. Elis. 4. Dal. 611.* Every retainer, promise, or payment of wages, or other thing whatsoever contrary to the true meaning of *5. Elis. 4.* and every writing and bond for that purpose is utterly void. *Dal. 611.*

Iustice of Peace may have his action of debt against the Sheriffe for his wages at the Sessions.

Cro. 177. Iustices of Peace shall be paid their wages out of the fines & amerciaments of the same Sessions, and they ought to assess the fines in the Court, and then the Clerk shall indent the estreats betwixt the Iustices and Sheriffe, and the Iustices shall put their names thereto, to the end the Sheriffe may know to whom to pay wages, and levy the same to pay to the Iustice, whereupon the Sheriffe shall be allowed the same upon his account in the exchequer. *14. Ric. 13. Cro. 177. Lam. 38.*

Wainlings.

Any killing any wainling Calves under 2 yeares

old

old to sell, lose & shall. 8 pence for every offence determinable at the Sessions. 24 H. 8. c. 1. *Jat.* 25. *Lam.* 413. 607.

Wait-lying.

Lying in wait to maim or kill any other, is to be fined. *Lam.* 446.

Warrants.

The Justice of Peace has command by word of mouth is in some cases as strong as his precept in writing. *Dalt.* 287.

Also Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties for their good behaviour, *Dalt.* 287. So upon affray, assault, threatening, or any other breach of the Peace, he may command the officer being present to arrest such offenders to finde surety for the Peace. *Dalt.* 287.

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing. *Dalt.* 287.

A warrant in writing must be under the Justices hand and seal, or under his hand at least. *Dalt.* 287. *Lam.*

A warrant for the Peace or good behaviour must contain the speciall matter. *Dalt.* 287.

A warrant for treason, murder or felony, or other capital offence and such like, need not contain the speciall cause. *Dalt.* 288. *Bro.* 148.

A warrant is better if it contain and bear the date at the place where it is made, the yeare and day when it was made. *Dalt.* 288. *Bro.* 148.

Iust. of Peace being out of the county, granteth his warrant to be served in the county; the officer must carry the party before some Justice of Peace within the county. *Dalt.* 288. *Lam.*

Justice of Peace may make his warrant to come before himself: yet upon a warrant for the Peace the usuall manner is otherwise. *Dal.* 288. 126. 137.

In some cases a Justice of Peace may grant his warrant to attach the offender, to be at the next Sessions of the Peace, to answer his said offence. *Dal.* 288.

Justices of Peace in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default: and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Justice, or any other Justice, &c. who finding cause to binde him, may binde him to the next Sessions to answer the said default. *Dalt.* 189. *Kide Dal.* 126.

Where the statute giveth authoritie to the Justice of Peace to cause another to do a thing, they have power of congruie to grant their warrant to bring such persons before them, that so they may take order therein. *Quere Dal.* 284. 289.

A Justice of Peace maketh a warrant beyond his authoritie, it is not disputable by Constable or other inferiour officer, but must be obeyed. *Lam.* 65. *Dalt.* 6. 209. 292.

But if the Justice make a warrant to do a thing out of his jurisdiction, or in a cause wherein he is not Iudge; if the officer execute the warrant he is punishable. *Dal.* 294. *Cro.* 147. b. *Dalt.* 6. *Lam.* 92.

Warrant for the Peace may be directed to any indiffe-

different person by name, though he be not officer: yet it is better so a known officer. *Lam. Dal. 290. Cro. 147.*

A sworn and known officer need not to shew his warrant; but the servant of the Justice must shew it if it be required. *Dalt. 291. Lam. 89, Cro. 148.2.*

A warrant directed to the Constable, and to a stranger jointly and severally, and executed solely by the stranger, is good. *Dal. 291. Cro. 147.b.*

Warrant directed to two jointly to arrest another, may be executed by one of them. *Dalt. 291. Lam. 89.*

A warrant being directed by a Justice of Peace to the Sheriffe, he may by word command any sworn or known officer under him without precept in writing. *Dalt. 291. Lam. 89.*

If a Justice of Peace his warrant be directed to the Sheriffe, Bailiffe, Constable, Justices servant, or other to arrest one, such person must serve it himself. *Dalt. 291. Lam. 89.*

He to whom any warrant shall be directed, must do it with all secrecie and speed. *Dalt. 295.*

A known officer must, if he will not shew his warrant upon arrest, declare the contents of his warrant. *Dal. 291.*

Upon arrest in the Kings name, the partie arrested ought to obey, *Dalt. 291.* for if he have not lawfull warrant, the partie grieved may have his action of false imprisonment. *Dalt. ibid.*

Another officer arresting a man doth afterwards procure a warrant, this is a wrongfull arrest. *Dal. 291. Lam. 90, 91.*

The officer having a warrant for the Peace, or good abeating, may break open the doors. *Dalt. 292. Cro. 170.b.*

One

One is arrested, who upon promise to come again is let go, and cometh not again; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit. *Dalt. 292.*

An Officer having a lawfull warrant to arrest another, is resisted or assaulted by the partie or any other person; the Officer may justify the beating or hurting such person. *Dalt. 292. Lam. 92.*

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, he shall be indicted and fined; for it is the Kings procelle. *Dal. 292. Cro. 149.2. Quere*, whether he shall not be bound to his good behaviour, *Dal. 292.*

Before that a Justice of Peace grant his warrant to arrest one for murder, or felonie, it is meet to examine the partie that requireth the warrant upon oath, and to binde him to give evidence at the next Goal-deliverie. *Dal. 292. 293.*

Warreners, *vide* Forrassers.

Watches.

Any Justice of Peace may cause night watches to be kept for the arresting of nightwalkers and persons suspect, be they strangers or others of evil fame. *Dalt. 113.*

Watch is to be kept yearly from Ascension day till Michaelmasse in every town, from sunne setting untill sunne rising. *Dalt. 113. 114.*

All strangers or persons suspected, passing by the watching men, may be examined by them; and if there be cause of suspicion, they may stay them, & if they will not obey, may levie hue and cry, and may justify to beat them, and may stock them till morning; and if they finde no cause of suspicion, deliver them;

them; but if they finde cause, may deliver them to the Constable, to carrie them before a Iustice of Peace. *Dal.* 113, 257.

Any Iustice of Peace may cause all night-walkers, strangers or others suspected, especially such as sleep in day and walk in night, to be arrested, and such as in the night haunt any house suspected of bawderie, or use suspicious companie, or commit other outrages or misdemeanours, and cause them to finde sureties for their good behaviour. *Dal.* 66. *Lam.* 118, 119.

No man is compelled to watch unlesse he be an inhabitant in the town. *Dalt.* 141. edit. 1626.

Watermen.

Every Iustice of Peace within the shire next adjoining to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the watermen and wherry-men, or two of them, or by the masters of any such servants, both to examine, heare and determine all offences against the statute, and set at large him that shall be imprisoned by the overseers and rulers, if there be just cause, and also by his discretion to punish those overseers and rulers, if there be just cause, as if they unjustly punish any person. 2 & 3 Ph. & M. 16. *Lam.* 203. *Dalt.* 114.

The offences against the statute are, *Dalt.* *ibid.*

1. No singleman shall be a waterman.
2. One of the two rowing in one boat must be allowed by eight of the overseers by writing under seal.
3. They shall not hide themselves in time of pressing for the Kings service.

4. They

4. They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall.

Wax.

One Iustice of Peace may examine and search by his discretion such as do sell any candles, or work of wax above foure pence cleare gain over the price of the wax, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King, *Dalt.* 114. *Lam.* 296, 464. 11. *H. 6.* 12.

Weapons which be forcible, *vide* Forcible Entrie.

Weeres.

Weeres in rivers may be surveyed by one Iustice of Peace, which he may cause to be made of a reasonable widenesse. *Lam.*

Any making weeres within five miles of the mouth of any haven or creek, or by weeres destroying any fric of fish of the sea, loseth 10 pound, one moytie to the King, the other to the informer. 3. *Jac.* 12. *Lam.* 189.

Weights and Measures.

Faults of the officer of Cities and Boroughs in not viewing and examining weights and measures twice a yeare, to be heard and determined by examination and enquire of two Iustices of Peace, one being of the Quorum, and by them to be fined and amerced: and so of faults of buyers and sellers by other weights and measures then they ought to do. 11. *Hen.* 7. 4. 12. *Hen.* 7. 5. *Lamb.* 356, *Dalling.* Two

Weights and Measures. 289

Two Justices of the Peace (one of the Quorum) may breake and burne such measures as they find defective, and fine the offenders by their discretion, and make proceſſe againſt them as in treſpaſſe, 12.H.7.4. Lam.356. Dalt.115.

Majors of Townes taking above a penny for ſealing a buſhell or other meaſure, or for weights above a penny for a pound and a halfe, a halfpenny for alone pound, a farthing for a leſſe weight, loſe 40.s. 1.Hen.7.4. Lam.37. Dalt.122.

Buying and ſelling by unlawfull weights or meaſures, or in any City or Market, with any weights or meaſures that are not lawfully marked or ſigned, he loſeth for the firſt offence ſixe ſhillings eight pence, and for the ſecond 20.s. and Pillory. 11.H.7.4. Lam.460.

To buy corne by heaped meaſure, except on Shipboard, or to uſe double meaſure, the one to buy, the other to ſell with, the firſt offence is ſixe ſhillings eight pence, the ſecond thirteen ſhillings four pence, the third twenty ſhillings and Pillory. 11.H.7.4. Lam.460.

Thoſe of the Towne where the Kings Standard is appointed to remaine, not having common weights and meaſures ſigned, or not ſelling by the ſame to all that have required the ſame, are to be fined and amerced. 1.Hen.7.4. Lam.460. Dalt.122. *Vid. plus Veffels.*

Witchcraft.

Invocation, Conjuratiō, conſultation, intertainment, imploiment, feeding or rewarding any dumbe ſpirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charmes, or uſing any manner Witchcraft, whereby any perſon

T

ſon

290 Witchcraft. Wines.

Ion shall be killed, or any part of them wasted or lamed, and also the accessories, is felony without Clergy. 1. Jac. 1 2. Lam. 415.

By Witchcraft or Charmes to find out hidden treasures, to tell where lost goods shall be found, to provoke unlawful love, to destroy or hurt any mans body, or to attempt either of them two, the first offence is one yeeres imprisonment without baile, and to stand in the Pillory six houres every quarter of the same year, & confesse his offence; the second is felony without Clergy. 2. Jac. 1 2. Lam. 415.

Triall of Noblemen upon the Stat. of 2. Jac. 1 2. of Witchcraft, is to be by his Peeres. *Ibid.*

Attainder upon the Stat. 2. Jac. 1 2. of Witchcraft, neither losse of Dowre, nor corruption of Blood. 2. Jac. 1 2.

Wines.

Wines brought in strange bottoms from France into any part of England, except the Isle of Man and Wales, forfeit the wines. 27. El. 1 2. Lam. 457.

Any licensed to retaile wine, selling above the prices limited by Proclamation, lose 3. s. 6. d. for every Gallon. 27. El. 1 1. Lam. 458.

Any under a Barons sonne, or 100. marks a yeer, or 1000. markes in goods, keeping to spend in his house any vessels of Gascoigne wine, French or Rochel wine, above 10. gallons, loseth ten pounds. 7. El. 6. 5. Lam. 433.

Wood.

Wood brought from France into any part of England, except the Isle of Man & Wales, in a strange bottom, forfeiteth the wood. 27. El. 1 1. La. 457. 458.

Upon complaint of the Lord, & disagreement of the

the Lord & his owners, the fourth part of the Lords wood may be set forth by two Justices, appointed by the greatest part of the Justices at their Sessions, and not being of kinred or alliance to the Lord. 35.H.8. 19. 13.El. 25. Lam. 359.

Just. in Qu. Sessions may call before them the owner of the wood, and 12. of the Commoners to set out the fourth part. Lam. 609.

Ingrosser or Regrater of Barke, forfeiteth the Barke. 1. Jac. 22.

Any selling of Barke meet to be barked, before April, or after June, except for necessary building, as repairing of houses, ships, mills, lose the oak, or double value. 1. Jac. 22.

Purveyors taking Timber for the use of the Kings ships or houses, the owner may retain all the Barkes lop and top, and the Purveyor taking them, loseth for every tree 40. shillings to the partie grieved. 2. Jac. 12.

Wooll and Wooll-seller.

Buyer of wooll of any other than the owner of the sheep, lose the value. 14.R. 2. 4. Lam. 428.

Woollen-yarne.

Buyer of woollen-yarne, and not making it into cloth, loseth the value thereof. 8.H.6. 5 Lam. 452.

Any sorter, carder, kember, spinster, or weaver, receiving wooll and yarne of any clothier or maker of stuffe, and embezeling, selling, or detaining the same, and the Receiver and Buyer knowing thereof, upon conviction, by confession or oath of one witnes before two Just. of P. is to make such recompence to the party as the Just. shall appoint: and the offender being unable, and refusing to doe

is, is to be whipt or stocked. 7. *Jac. 7.* 18 b. 10. 1. 1. 1.

Women.

Women arraigned for felony, may only for one time have the benefit of their belly. *Leu. 563.* H. 22.

Just. of Peace. cannot award a *Penitenciam* for *marriages*, to know whether a woman felon be with childe.

Taking away a woman against her will that hath land, &c. or is heire apparent, not claiming her as ward, and after marry or deflowre her, is felony without Clergy. So of the procurers, abettors, and receivers knowing thereof. 3. *M. 7. 1. Leu. 421.*

A woman being delivered of a bastard child, and borne alive, that endeavoureth privately by drowning, secret burning, or other way by her selfe, or procuring of other, to conceale the death thereof, as that it may not come to light, whether it were borne alive or dead, shall suffer as in murder, except she can prove by one witness, that the child was borne dead. 21. *Jac. 27.* 100VV 100VV

Women convicted of felonious taking above 1 s. d. and under 10. s. being not Burglary or Robbery in or neere any high way, nor taking of mony, goods, or chattels from the person of any, privily or as necessary to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand, and further imprisoned, whipped, & stocked, or sent to the house of Correction (not above a year) as the Justice before whom the conviction is, shall thinke meet. 21. *Jac. 6. Dal. 267.*

Wife and her husband are bound to appeare at the Sessions, in the meane time to keep the peace. The husband only appearing, the Recognizance is not forfeited, *Dals. 146. Cro. 144. 6.*

FINIS.

1843
govt
is vo
one
1843
govt
with
bath
er as
lony
and
and
syn-
or
of, as
orne
the
rne
s.d.
y in
ods,
s ac-
have
d in
loc-
ve a
is,
re at
pace.
ce is

P. Y. C.
6/14/29